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LEGISLATIVE HISTORY

Public Law 87-258
H. R. 2883

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INDEX AND SUMMARY OF H. R. 2883

Jan. 6, 1961	Sen. Keating introduced and discussed S. 202 which was referred to the Senate Judiciary Committee. Print of bill and remarks of Sen. Keating.
Jan. 18, 1961	Rep. Celler introduced H. R. 2883 which was referred to the House Judiciary Committee. Print of bill as introduced.
Apr. 19, 1961	House committee voted to report (but did not actually report H. R. 2883).
Apr. 25, 1961	House committee reported H. R. 2883 with amendment. H. Report No. 297. Print of bill and report.
May 1, 1961	House passed H. R. 2883 as reported. H. R. 2883 was not printed as passed by House and referred to Senate committee.
July 18, 1961	Senate subcommittee approved H. R. 2883 for full committee consideration.
Aug. 14, 1961	Senate committee reported H. R. 2883 with amendments. S. Report No. 736. Print of bill and report.
Aug. 28, 1961	Sen. Keating submitted his proposed amendment to H. R. 2883.
Sept. 7, 1961	Senate passed H. R. 2883 with amendments.
Sept. 11, 1961	House concurred in Senate amendment.
Sept. 21, 1961	Approved: Public Law 87-258.

87TH CONGRESS
1ST SESSION

S. 202

IN THE SENATE OF THE UNITED STATES

JANUARY 6, 1961

Mr. KEATING introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2679 of title 28, United States Code, is amended
4 (1) by inserting the subsection symbol "(a)" at the be-
5 ginning thereof and (2) by adding immediately following
6 such subsection (a) as hereby so designated, four new sub-
7 sections as follows:

8 “(b) The remedy by suit against the United States

1 as provided by section 1346 (b) of this title for damage to
2 property or for personal injury, including death, resulting
3 from the operation by any employee of the Government of
4 any motor vehicle while acting within the scope of his office
5 or employment, shall hereafter be exclusive of any other civil
6 action or proceeding by reason of the same subject matter
7 against the employee or his estate whose act or omission
8 gave rise to the claim.

9 “(c) The Attorney General shall defend any civil action
10 or proceeding brought in any court against any employee of
11 the Government or his estate for any such damage or injury.
12 The employee against whom such civil action or proceeding
13 is brought shall deliver within such time after date of service
14 or knowledge of service as determined by the Attorney Gen-
15 eral, all process served upon him or an attested true copy
16 thereof to his immediate superior or to whomever was desig-
17 nated by the head of his department to receive such papers
18 and such person shall promptly furnish copies of the plead-
19 ings and process therein to the United States attorney for
20 the district embracing the place wherein the proceeding is
21 brought to the Attorney General, and to the head of his
22 employing Federal agency.

23 “(d) Any such civil action or proceeding commenced in
24 a State court shall be removed without bond at any time be-
25 fore trial by the Attorney General to the district court of the

1 United States for the district and division embracing the
2 place wherein it is pending and the proceedings deemed a
3 tort action brought against the United States under the pro-
4 visions of this title and all references thereto. Should a
5 United States district court determine on a hearing on a
6 motion to remand held before a trial on the merits that
7 the case so removed is one in which a remedy by suit within
8 the meaning of subsection (b) of this section is not avail-
9 able against the United States, the case shall be remanded
10 to the State court.

11 “(e) The Attorney General may compromise or settle
12 any claim asserted in such civil action or proceeding in the
13 manner provided in section 2677, and with the same effect.”

14 SEC. 2. The amendments made by this Act shall be
15 deemed to be in effect six months after the enactment hercof
16 but any rights or liabilities then existing shall not be affected.

Amend the title so as to read: “A bill to amend title 28,
entitled ‘Judiciary and Judicial Procedure’, of the United
States Code to provide for the defense of suits against Fed-
eral employees arising out of their operation of motor vehicles
in the scope of their employment, and for other purposes.”

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

By Mr. KEATING

JANUARY 6, 1961

Read twice and referred to the Committee on the
Judiciary

Government (1) to distinguish between its operating expenditures and capital investments, (2) to exclude certain productive capital investments from the public debt, and (3) to retire the public debt."

FUNCTIONS OF COUNCIL OF ECONOMIC ADVISERS

SEC. 3. Section 4(c) of such Act (relating to the duties and functions of the Council of Economic Advisers) is amended by changing the designation of paragraph (5) to (6) and inserting after paragraph (4) a new paragraph (5) to read as follows:

"(5) to evaluate each year the Federal budgetary situation as related to the prospective gross national product and other economic indicators and needs, and to recommend, for inclusion in the Economic Report, a minimum and maximum program of proposed capital investments, including, on a segregated basis, productive capital investments for the next fiscal year, and a six-year projection of such proposed investments;"

CAPITAL BUDGET

SEC. 4. (a) Such Act is further amended by adding at the end thereof the following new section:

"Sec. 6. (a) In transmitting to Congress the estimates called for in section 201 of the Budget and Accounting Act, 1921, as amended, the President shall also—

"(1) to the extent and in such detail as he shall designate by Executive order (and so far as practicable consistent with the practices of the Internal Revenue Service) distinguish between operating expenditures and capital investments of the Government, and further set forth the productive capital investments, including mortgage loans, which have a useful economic life of more than ten years and which are revenue producing or self-liquidating in nature;

"(2) advise the Congress as to the progress made in identifying and computing capital investments and more particularly such productive capital investments; and in computing the public debt exclude therefrom an amount equal to such productive capital investments;

"(3) advise the Congress as to a minimum and maximum program of proposed capital investments, including, on a segregated basis, productive capital investments for the next fiscal year, and a six-year projection of such proposed investments; and

"(4) advise the Congress as to the amount of the public debt as computed in accordance with this section and of the effect of the proposed budgetary program upon the retirement of the public debt.

"(b) The amount of obligations issued to finance productive capital investments shall not be considered a part of the public debt for the purpose of limitations on the public debt contained in section 21 of the Second Liberty Bond Act, as amended."

(b) The amendment made by this section shall be effective with respect to each budget transmitted to the Congress pursuant to section 201 of the Budget and Accounting Act, 1921, as amended, after the date of enactment of this Act.

APPLICATION OF GOVERNMENT CORPORATION CONTROL ACT

SEC. 5. The provisions of the Government Corporation Control Act, as amended, with respect to budgets, reporting, auditing, and accounting, shall apply to the functions exercised by any officer or agency of the Government proposing the investment of Federal bond proceeds in productive capital, to the same extent as applicable to wholly owned Government corporations.

AMENDMENT OF INTERNAL REVENUE ACT OF 1954, RELATING TO GIFTS TO INSTITUTIONS

Mr. CARLSON. Mr. President, I introduce a bill which would remove an

inequity in the application of section 170 (b) (1) (A) (ii), Internal Revenue Code of 1954, which allows deduction of up to 30 percent of a donor's adjusted gross income if the extra 10 percent comprises gifts to educational institutions.

Thirty or more State universities and land-grant colleges are now blocked, either wholly or in part, from the benefit of this section. These institutions are ones which receive and administer private gifts through separately incorporated foundations, either by necessity or preference.

Schools are defined in the code as having a faculty and students, granting degrees, et cetera. Inasmuch as the endowment association is closely associated with the University of Kansas, and this situation is true in many of our other similar schools, a specific favorable ruling was received from the Bureau of Internal Revenue in 1956, which permitted contributors to the association to take the maximum tax deductibility of 30 percent of adjusted gross income on their gifts.

This year the Bureau of Internal Revenue changed this ruling so that donations to the endowment associations no longer qualify for 30-percent deductibility, but only for 20-percent deductibility.

An inequity results because section 170 (b) (1) (A) applies only to gifts made directly to the specified institutions. Gifts made to separate foundations for the exclusive use or benefit of particular educational institutions do not qualify for the extra 10-percent treatment (Revenue ruling 60-110, March 28, 1960), even where the recipient foundations are the designated gift-receiving agencies of the affected universities.

There are 44 or more such gift-intermediary foundations associated with State universities and land-grant colleges. Each such foundation serves one particular university and is controlled by its parent institution in practice, although not in law.

At least 14 universities in 9 States cannot receive or administer private gifts without the services of such gift-intermediary foundations. In these cases, some element in State law prevents the corporate university from receiving or administering private gifts as specified by donors. In most cases, however, such foundations exist at the preference or for the convenience of their parent universities rather than by absolute necessity.

In order to preserve the original intent of section 170(b) (1) (A) (ii), it is proposed that amendment be made to section 503(b) (2) (which defines the educational institutions which may benefit from the extra 10-percent rule) to provide for gift-intermediary foundations of the type here described.

I realize that tax legislation must originate in the House of Representatives, and I sincerely hope that, once legislation of this type is approved by the House, we may get early action in the Senate.

Action on the proposed amendment is so urgent that I expect to offer it as an amendment to the first bill dealing with tax legislation that comes before the

Finance Committee from the House of Representatives.

Mr. President, I ask unanimous consent that the bill, together with a general statement of reasons favoring the proposal, be made a part of these remarks.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill and statement will be printed in the RECORD.

The bill (S. 196) to make the treatment under the Internal Revenue Code of 1954 of certain foundations, all of which are closely associated with State colleges and universities and which act as intermediary recipients and administrators of gifts for the exclusive use or benefit of those colleges and universities with the consent, identical with that of those institutions, introduced by Mr. CARLSON, was received, read twice by its title, referred to the Committee on Finance, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 503(b) (2) of the Internal Revenue Code of 1954 (relating to the definition of educational organizations) is amended by inserting "Either—(A)" at the beginning of the paragraph, by inserting "or" at the end of the paragraph, and by inserting after the paragraph the following new subparagraph:

"(B) an organization operated substantially to receive and hold, invest, administer or expend property, less expenses, exclusively for the use or benefit of a particular educational organization of the type described in subparagraph (A) of this paragraph and in section 511(a) (2) (B) (relating to State colleges and universities), except that no organization may qualify under this subparagraph if it disburses funds in a manner unacceptable to the said educational organization."

The statement presented by Mr. CARLSON is as follows:

GENERAL STATEMENT OF REASONS FAVORING THE PROPOSAL

The attached amendment to section 503 (b) (2) of the Internal Revenue Code of 1954 is proposed on behalf of a number of State universities and land-grant colleges which have separate foundations acting as their designated agents for receiving and administering endowment funds and other gifts. The present wording of section 170(b) (1) (A) (ii) of the code has made it impossible for some of these universities to benefit from the extra 10-percent deduction rule which Congress meant they should enjoy. This amendment is thus proposed to remove an unintended inequity.

In enacting the extra 10-percent provision, Congress intended this special benefit specifically for colleges and universities, churches and associations of churches, and hospitals, and these alone. It did not wish to include quasi-educational organizations which might be charitable, wholly worthy and exempt, but are not actually schools. It meant specifically to exclude charitable foundations not directly associated with particular colleges and universities, even though all the benefices of such a foundation might be for educational purposes. Section 170(b) (1) (A) (ii) was therefore written narrowly, applying only to gifts made directly to colleges and universities—not, as usually provided with respect to gift deductibility elsewhere in the code, gifts made for the use of such institutions. (For further discussion of the congressional intent, see appendix D.)

Congress did not realize that there are some State universities and land-grant colleges which rarely if ever receive gifts directly. Some of these institutions are legally prohibited from receiving gifts—gifts meant for them must go to the State, for instance, which is not thereby obligated to use the funds so received for the university—but most of them prefer to receive private support through intermediary foundations rather than being obligated to do so. The exact reasons for this practice vary from State to State, but typically include such factors as administrative simplicity, removal from any possible political involvement, and investment flexibility.

Where a State university or land-grant college has such an intermediary foundation which handles gift funds on its behalf, that institution is now either denied outright the benefit of section 170(b)(1)(A)(ii), or able to enjoy it only by altering its preferred procedures. The Internal Revenue Service has, in Revenue Ruling 60-110 (Mar. 28, 1960), denied the extra 10-percent privilege to university foundations of this type, since legally such foundations are separate corporations. Gifts to them are thus not legally gifts to a university, even though, in fact, they are.

These intermediary foundations are integral, essential parts of their universities in all practical respects. They perform a group of functions which are handled through regular administrative offices at other colleges and universities. They receive gifts, both for current use and for endowment; enter into contracts, and receive funds as trustees; manage properties and investments; acquire campus land and erect university buildings; and administer student loan programs, scholarships, and faculty projects. One such foundation is in the unusual position of being the legal owner of much of its university's campus land and buildings. In general these foundations do a variety of things which are normal, accepted functions of colleges and universities. They merely do them through separate corporations rather than through the university corporation.

There are many historical, legal, and operating links between these foundations and their parent institutions. Most such foundations were set up at the instigation of university presidents or chancellors. University presidents or their representatives are commonly included on the boards and executive committees of the foundations. In practice, although not generally as a legal requirement, the foundations disburse funds only as specifically desired by the university administration. Alumni of the institution predominate on the board of such a foundation. Each of the foundations serves one particular tax-supported college or university.

To illustrate these points specifically, attached as appendixes A, B, and C are detailed descriptions, respectively, of the Kansas University Endowment Association, the University of Nebraska Foundation, and the University of Oklahoma Foundation, Inc. These three examples, chosen from the same part of the country to minimize any question of regional differences, illustrate the functions and diversity of such organizations.

There are known to be at least 44, but probably fewer than 100, such foundations in the United States. Of these, the foundations of at least 14 institutions in 9 States (Iowa, Kansas, New York, Oregon, South Dakota, Utah, Virginia, West Virginia, and Wisconsin) are especially affected because of some specific legal impediment concerning the receipt, investment, or administration of gift funds by the corporate universities supported by those States.

The actual effect of the present inequity has varied widely from university to university. The problem is most important to those foundations now doing the best jobs of attracting private support for their uni-

versities, since the extra 10 percent deductibility factor has practical meaning only to the prospective donor of an exceptionally large gift. Such donors come most often to the alert fund raising officers who find them. Some foundations have never had prospective donors whose gifts were of such size that the extra 10 percent had a practical effect. For those who have had prospective large gifts lost or delayed by the present inequity, however, the situation has been especially painful because it adversely affects the most important gifts—the biggest ones.

It is proposed by the attached amendment to remove this inequity by specifically qualifying gift-intermediary foundations closely associated with publicly supported colleges and universities, where the disbursements made by the foundations have university approval.

Amendment is proposed to section 503(b)(2), the paragraph which defines the educational organizations which may benefit from section 170(b)(1)(A)(ii), rather than to the latter section because this seems a more workable way of preserving the original intent of section 170(b)(1)(A). Amending the latter could weaken the intended general distinction between gifts "to" and gifts "for the use of" educational institutions. This distinction should, we believe, be preserved. We propose an exception specifically and only for gift-intermediary foundations closely associated with State universities, land-grant colleges and other tax-supported colleges and universities. Without this exception, the institutions themselves cannot fully benefit from a provision intended for them.

VOLUNTARY PENSION PLANS BY SELF-EMPLOYED INDIVIDUALS—CONVEYANCE OF CERTAIN LAND TO CLARK COUNTY, IND.

Mr. MANSFIELD. Mr. President, on behalf of the distinguished Senator from Indiana [Mr. HARTKE], I introduce two bills for appropriate reference and ask that the statements accompanying them be incorporated at this point in the RECORD.

The PRESIDING OFFICER. The bills will be received and appropriately referred; and, without objection, the statements will be printed in the RECORD.

The bills, introduced by Mr. MANSFIELD (for Mr. HARTKE), were received, read twice by their titles, and referred, as indicated:

To the Committee on Finance:

S. 197. A bill to encourage the establishment of voluntary pension plans by self-employed individuals.

The statement of Mr. HARTKE accompanying the above bill is as follows:

STATEMENT BY SENATOR HARTKE

I introduce for appropriate reference a bill to amend the Internal Revenue Code of 1954 so as to encourage self-employed individuals to establish voluntary pension plans.

This legislation simply permits self-employed individuals to take care of their retirement needs during their working years. It will give to the self-employed the same benefits of our tax laws which are now enjoyed by employees of businesses and corporations. The benefits of the bill are much more modest than those given to corporation employees and officers, since there is a limitation placed on the amount which self-employed individuals may contribute to a retirement plan.

Legislation encouraging thrift and self-reliance has always been looked upon with favor by American citizens. We encourage

corporations and businesses to provide retirement plans for their employees, but self-employed individuals have been left out. This legislation will encourage them to provide for their retirement needs themselves. This will encourage individual initiative.

We have delayed action in this field too long. I earnestly hope that it will be possible for the Senate Finance Committee to begin hearings on this legislation early this year so that we may take final action before the end of this session.

To the Committee on Armed Services:

S. 198. A bill to authorize the Secretary of the Army to convey certain land located in the State of Indiana to Clark County, Ind.

The statement of Mr. HARTKE accompanying the above bill is as follows:

STATEMENT BY SENATOR HARTKE

I introduce for appropriate reference a bill to provide for the transfer of certain property currently within the possession of the Department of the Army to Clark County, Ind. Upon accomplishment of the transfer, the land will be designated for the use and disposition of the 4-H Club of the county.

It was my pleasure to introduce legislation of a similar nature in the closing days of the last session of Congress.

The State of Indiana is one which possesses a proud and noble agricultural heritage. Agriculture has been a strong facet in the economy of Indiana, and Indiana has been a substantial contributor to the agricultural betterment of the United States.

But the maintenance of such productivity is allowed only by the development of the skills of our young farmers.

It is my hope, that the transfer of this land might effect a more compatible means of education and development of the young agricultural minds of Indiana, and I strongly urge that Congress take favorable action upon this bill in order that the needed facilities may be at the disposal of the Clark County 4-H Club.

DEFENSE OF CERTAIN SUITS AGAINST FEDERAL EMPLOYEES

Mr. KEATING. Mr. President, I introduce, for appropriate reference, a bill to amend the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment.

Incredible as it may seem, under existing law, a postal worker who is involved in an accident while driving a Government truck during the course of his duties can be held personally liable for any damages. This is a manifestly unjust situation that should be corrected at the earliest possible date.

I have long sought a remedy for this inequitable situation which has in the past been remedied only on an individual basis by private legislation.

A study was made of the best way to effect this change during the last session of the Congress, but unfortunately, and inadvertently I fear, the measure last year was amended in such a way as to make it inconsistent with the body of Federal law and practice in the field of tort claims.

This bill, in the form in which I am now introducing it, should be satisfactory on all counts. No longer will the postal employees, or any other Federal workers in a similar position have to be tried in a personal capacity. The Gov-

ernment will bear the defense costs and assume the liability as determined in a Federal court. These cases will be tried in a Federal district court under the Federal Tort Claims Act. This should not work any great hardship upon the plaintiff, but it should for the first time provide adequate and equitable protection for the drivers of postal vehicles. I urge all my colleagues to give their support to this worthwhile and much needed legislation.

I ask unanimous consent that the bill be printed at this point in the RECORD.

The PRESIDING OFFICER. The bill will be received and appropriately referred; and, without objection, the bill will be printed in the RECORD.

The bill (S. 202) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes, introduced by Mr. KEATING, was received, read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States as provided by section 1346 (b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

"(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the

United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

Amend the title so as to read: "A bill to amend title 28, entitled 'Judiciary and Judicial Procedure', of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes."

AMENDMENT OF SECTION 315(A) OF COMMUNICATIONS ACT

Mr. MAGNUSON. Mr. President, I submit a bill for introduction and for appropriate reference.

I might say to the Members of the Senate that last year I sponsored a bill to amend section 315(a) of the Communications Act which would allow the networks of the country to proceed to make time available to presidential and vice-presidential candidates in the election which has just become history, and concerning which some more history will shortly be made on the other side of the Capitol.

I have consulted many persons involved in this matter, including both political parties. The bill I introduced last year to amend the section was temporary; it provided only for the campaign just past.

In order to bring the matter before the Senate again, I am reintroducing the amendment to the Communications Act, section 315(a), which would make the amendment permanent and would allow availability of time for presidential and vice-presidential candidates.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

The bill (S. 204) to provide that section 315(a) of the Communications Act of 1934 shall not apply to candidates for the offices of President and Vice President of the United States, introduced by Mr. MAGNUSON, was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

USE OF TELEVISION STATIONS FOR SCHOOLS AND COLLEGES

Mr. MAGNUSON. Mr. President, today I am reintroducing on behalf of the senior Senator from the State of Kansas [Mr. SCHOEPPF], and myself, the measure designed to help activate many of our idle educational television channels.

This measure which passed the Senate during the 86th Congress would allocate \$1 million to each State and the District of Columbia toward the purchase or installation of equipment to get educational television stations on the air. None of the appropriation authorized

could be used for personnel or program service.

As this measure is presented again to the Senate, I recall the article written for the National Association of Educational Broadcasters Journal and printed in the May-June 1960 edition:

We have our race for space. We have shown haste to face the missile gap. However, thus far, we have set no pace to erase the gap in educational television which measures almost two-thirds of our Nation in breadth.

Many contend that we have given our educators more advice than funds, more students than desks, more technology to teach than we have modern tools to teach it, including educational television.

On April 14, 1952, the Federal Communications Commission set aside 242 channels for noncommercial educational stations. Now that number has been increased to 257. Less than 55 stations are on the air today.

During that same period, what has happened in other fields?

Both Russia and America have placed satellites in orbit, launched deep space thrusts, made supersonic missiles operational, adapted atomic propulsion to water navigation.

Our travelers have become accustomed to crossing the continent in less than 4 hours and the Atlantic Ocean during daylight hours. But two-thirds of our students have progressed eight grades without having educational television available to them.

For the one-third of the Nation's school population which has used educational television, the experience has been most rewarding and promising. To know exactly how rewarding and promising, you should have sat with me in my Senate Interstate and Foreign Commerce Committee room a year ago.

Had you been a parent listening, you would have heard other parents tell how their children had gained in knowledge through educational television.

Had you been a teacher, you would have heard eager fellow educators telling what a tool the medium is when applied as a teaching supplement.

Had you been a lawmaker, the problems of utilizing educational television properly would have been most revealing, and heart touching.

You would have learned of innumerable community meetings held, countless conferences convened, reams of minutes taken, and many sound conclusions reached.

Testifying before my committee were those who had channels allocated but not activated. Those who had stations in service. Those who had seen educational television in service elsewhere and now wanted it for their areas, their children.

There was no shortage of desire for an educational television station. Nor was any lessening of need indicated. Only a shortage of dollars was indicated to buy equipment, install it, get the picture into the classroom.

The dollars trouble me, as they do you.

Those offering testimony saw in my measure, S. 12, being reintroduced in the Senate today, a chance to obtain part of the dollars they need. This help, they felt, can spell the difference between having a channel which is allocated but unused or a channel beaming programs to students.

Each witness knew that even \$1 million allocated to each State and the District of Columbia, as provided by the Magnuson measure, wouldn't stretch far. They knew the dollars supplied could be used only to buy equipment or install it. After the station was on the air, no Federal funds under the Magnuson Act could be used for either personnel or program service.

But they must have equipment before programs. The equipment must be installed. So they were for my bill. They thought it should be speedy. That no time be wasted getting the program in operation.

That was a year ago.

I have been fighting for this legislation for the past 4 years. This was a logical next step, since we had won the battle to have these channels reserved exclusively for educational purposes.

If this effort meets with success and we can immediately double or triple the number of educational stations now on the air, considering that we now have less than 55, this can be an important step forward.

If every community could proceed as did my home city of Seattle, then the problem could be lessened.

Loren Stone, who directs channel 9, Seattle, tells me that the \$1 per student contribution made by the majority of school districts, King County, and Seattle city schools, coupled with the same payment from Seattle University and Seattle Pacific College provides about two-thirds of the station's annual budget. The other one-third comes from the University of Washington. Other areas have tried much the same plan with varying degrees of success.

But in Seattle it works.

Cutting down operational costs there is the arrangement for the University of Washington to provide studio and office facilities on the campus, and, through the school of communications, to make students available to augment the station's small professional staff. Housing for the station transmitter is provided at Edison Technical School and Edison's students maintain and operate the facility.

However, at channel 9's start, capital funds came almost exclusively from outside the local educational group. The Fund for Adult Education, an independent agency created by the Ford Foundation, made a grant to the station of \$150,000, upon the condition the station raise double that amount in local matching funds. Commercial television station KING-TV, owned by Mrs. Scott Bullitt made a gift of television equipment, including a transmitter, two camera chains, a tower and many other useful items valued at \$121,963. A community-wide drive for funds produced \$33,441. The Emerson Radio & Phonograph Corp. made a grant of \$10,000 to the station as

being one of the first 10 educational television stations to commence broadcasting. The University of Washington provided studio and building facilities, which for purposes of the required matching funds, have been valued at \$275,000.

Through this supercommunity effort and the humanitarian gesture by Mrs. Bullitt, we now have "Calculus," a half-hour three time a week series for accelerated mathematics students going to our high school seniors in the Seattle-King County area.

Our third graders get "Panchito y los animales," a quarter-hour three-times-a-week series in the Spanish language.

Junior high students studying Washington State history can look up from their books to catch "Reliving the Past," a weekly series carried on channel 9.

The "Listen and Say" basic speech and reading program commands wide attention in our primary classes.

To permit the greatest possible elasticity, the classroom teacher can pluck from the air, the individual program best suited for her room at the time she wants it because each of the in-school programs are repeated two or three times during the day or week. These repeats are made from kinescopes made of the programs in channel 9's studios. Thus repeats are possible in future years and loans are possible to schools outside the station's coverage area.

Loren Stone informs me that channel 9 has an evening schedule including an hour for children from 7 to 8, an hour of telecourses from 8 to 9 and an hour of general cultural and informational programs for adults and the entire family from 9 to 10.

Each of you has an example to draw upon from the nearest educational station. Perhaps you, as I, have talked with children who view the programs, use the facility to give new meaning to textbook pages, learn by seeing as well as hearing.

Actually, one cannot know the full meaning nor potential of educational television until you have sat down with the student, the teacher, the parent, and talk concrete results.

The results are eloquent.

So was Dean Gordon Sabine, of Michigan State University, when he told my committee last year:

The educational needs of the United States have so far outstripped the educational capabilities of the Nation that we must have educational television to help us win the fight to educate a whole people. Without it, we surely are defeated.

Then the words uttered by Richard B. Hull, director of radio and television broadcasting for the Ohio State University in Columbus still echo in the hearing room:

With the kind of Federal aid which S. 12 provides, aid which specifically forbids any kind of Federal direction or control, a "grassroots" educational television development at the State level for the first time becomes possible, and the electronics mass media, already harnessed to the purposes of business and industry can become available to education.

This testimony, and thousands of words in the same vein, give stature to

the hearing record on S. 12. They gave impetus to the measure when it passed the Senate.

But the only real satisfaction can come when the electronic picture tube lights up in those classrooms in the other two-thirds of our Nation to let those students have this vibrant, vital new educational supplement that is television.

Until these tubes glow, our job remains unfinished.

I wish to let the bill remain on the desk so that the names of additional sponsors may be added to it.

The PRESIDING OFFICER. May the Chair ask the Senator how long he wishes the bill to lie on the desk?

Mr. MAGNUSON. At least 3 or 4 days; at least until Tuesday or Wednesday of next week, because many Senators will not be here over the weekend.

The PRESIDING OFFICER. Four days, then?

Mr. MAGNUSON. Yes.

The PRESIDING OFFICER. The bill will be received and appropriately referred and, without objection, the bill will lie on the desk as requested.

The bill (S. 205) to expedite the utilization of television transmission facilities in our public schools and colleges, and in adult training programs, introduced by Mr. MAGNUSON (for himself and Mr. SCHOEPPEL), was received, read twice by its title, and referred to the Committee on Interstate and Foreign Commerce.

PROTECTION OF WATER RIGHTS OF STATES

Mr. HRUSKA. Mr. President, on behalf of my colleague [Mr. CURTIS], the senior Senator from Colorado [Mr. ALLOTT] and myself, I introduce, for appropriate references, a bill to affirm and recognize the water laws of the States lying wholly or partly west of the 98th meridian.

Mr. President, on two previous occasions, like bills on the same subject have been introduced in this body.

It is considered necessary to give legislative assurance of the integrity of western water rights, in view of the adverse implications arising from recent Supreme Court decisions, in particular in the case of *Federal Power Commission v. Oregon* (349 U.S. 435 (1955)).

Much discussion and effort have already been devoted to the question. There are on file reports from departments and agencies having programs or interests connected with western water rights. It comes as no surprise to find that divergent views on such legislation were expressed. But a concern for reasonable protection of Federal programs and interests—which, incidentally, this bill provides for—should not altogether hold up legislative action and thus deprive persons in reclamation States of the needed assurance of their vested property rights in the use of water.

I send the bill to the desk, Mr. President, with the request that it be appropriately referred.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

87TH CONGRESS
1ST SESSION

H. R. 2883

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 1961

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2679 of title 28, United States Code, is amended
4 (1) by inserting the subsection symbol "(a)" at the begin-
5 ning thereof and (2) by adding immediately following such
6 subsection (a) as hereby so designated, four new subsections
7 as follows:

8 “(b) The remedy by suit against the United States as

1 provided by section 1346 (b) of this title for damage to
2 property or for personal injury, including death, resulting
3 from the operation by any employee of the Government of
4 any motor vehicle while acting within the scope of his office
5 or employment, shall hereafter be exclusive of any other
6 civil action or proceeding by reason of the same subject mat-
7 ter against the employer or his estate whose act or omission
8 gave rise to the claim.

9 “(c) The Attorney General shall defend any civil action
10 or proceeding brought in any court against any employee
11 of the Government or his estate for any such damage or
12 injury. The employee against whom such civil action or
13 proceeding is brought shall deliver within such time after
14 date of service or knowledge of service as determined by
15 the Attorney General, all process served upon him or an
16 attested true copy thereof to his immediate superior or
17 to whomever was designated by the head of his department
18 to receive such papers and such person shall promptly fur-
19 nish copies of the pleadings and process therein to the
20 United States attorney for the district embracing the place
21 wherein the proceeding is brought, to the Attorney General,
22 and to the head of his employing Federal agency.

23 “(d) Any such civil action or proceeding commenced in
24 a State court shall be removed without bond at any time
25 before trial by the Attorney General to the district court

1 of the United States for the district and division embracing
2 the place wherein it is pending and the proceedings deemed a
3 tort action brought against the United States under the
4 provisions of this title and all references thereto. Should a
5 United States district court determine on a hearing on a
6 motion to remand held before a trial on the merits that the
7 case so removed is one in which a remedy by suit within
8 the meaning of subsection (b) of this section is not available
9 against the United States, the case shall be remanded to the
10 State court.

11 “(e) The Attorney General may compromise or settle
12 any claim asserted in such civil action or proceeding in the
13 manner provided in section 2677, and with the same effect.”

14 SEC. 2. The amendments made by this Act shall be
15 deemed to be in effect six months after the enactment hereof
16 but any rights or liabilities then existing shall not be affected.

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

By Mr. Celler

JANUARY 18, 1961

Referred to the Committee on the Judiciary

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

Issued April 20, 1961
For actions of April 19, 1961
87th-1st, No. 66

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HIGHLIGHTS: Senate committee voted to report bill to provide additional authorizations for Public Law 480. Rep. Cooley urged enactment of Administration farm bill. Senate committee reported nomination of Bertsch to be Farmers Home Administrator. Senate debated minimum wage bill. Senate committee reported bill to authorize temporary reapportionment of pooled acreage allotments.

SENATE

1. MINIMUM WAGE. Continued debate on H. R. 3935, to amend the Fair Labor Standards Act and increase the minimum wage gradually to \$1.25 an hour. pp. 5849-87
Agreed to the following amendments:
 - By Sen. Hill to exempt from the Act workers who may occasionally engage in livestock auction operations as an adjunct to his regular work of raising livestock. pp. 5878-9
 - By Sen. Young, N. Dak., to exempt from the Act workers employed at country elevators that market farm products for farmers. p. 5883
 - By Sen. Russell to exempt from the Act workers engaged in ginning cotton for market at any location in a county where cotton is grown in commercial quantities. p. 5887

Rejected the following amendments:

By Sen. Goldwater, 39 to 55, to require the imposition of quotas, tariffs, etc., when the Secretary of Labor investigates and reports to the President that foreign competition has resulted or may result in unemployment in the U. S. pp. 5849-57

By Sen. Monroney, 39 to 56, to reduce the number of additional employees to be covered under the Act. pp. 5857-71

By Sen. Morse to exempt from the Act workers engaged in lumbering or forestry operations of a business controlled by an enterprise engaged in the production of pulp, paper, or other wood products or is owned by the U. S., State, or local government. pp. 5879-82

By Sen. Holland to provide that the Secretary of Labor shall have no power, except as expressly provided by law, to regulate the wages and hours of employment of workers employed in agriculture. pp. 5883-7

2. SURPLUS COMMODITIES; FOREIGN TRADE. The Agriculture and Forestry Committee voted to report (but did not actually report) without amendment S. 1027, to amend Public Law 480 so as to provide an additional authorization of \$2 billion during 1961 under title I for sales of surplus commodities for foreign currencies. p. D259
3. NOMINATIONS. The Agriculture and Forestry Committee reported the nomination of Howard Bertsch to be Administrator of the Farmers Home Administration, and the nominations of Julian B. Thayer and Joe B. Zeug to be members of the Federal Farm Credit Board, Farm Credit Administration. p. 5833
4. ACREAGE ALLOTMENTS. The Agriculture and Forestry Committee reported with amendment S. 1372, to authorize the temporary release and reapportionment of pooled acreage allotments (S. Rept. 172) (p. 5836). The committee voted to report the bill earlier in the day (p. D259).
5. TEXTILES. Received from the Commerce Committee a report, "Problems of the Domestic Textile Industry" (S. Rept. 173). p. 5836
6. FARM LABOR. Sen. Williams, N. J., discussed the current hearings on problems of migratory labor and inserted several items on the matter. pp. 5901-3

HOUSE

7. FARM BILL. Rep. Cooley announced that the Agriculture Committee will open hearings on Monday, April 24, on the administration's farm bill, H. R. 6400, with Secretary Freeman the first witness. He stated that the first phase of the hearings will be limited to title I of the bill, and later hearings will deal with Public Law 480, agricultural credit, and the special milk program. He urged enactment of this bill at the earliest possible date. pp. 5939-40
8. LANDS. The Interior and Insular Affairs Committee voted to report (but did not actually report) H. R. 5416, to include within the boundaries of Joshua Tree National Monument, in the State of California, certain Federally owned lands used in connection with the monument. p. D261
9. VEHICLES. The Judiciary Committee voted to report (but did not actually report) H. R. 2883, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. p. D261

AMENDING TITLE 28, ENTITLED "JUDICIARY AND JUDICIAL PROCEDURE," OF THE UNITED STATES CODE TO PROVIDE FOR THE DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES ARISING OUT OF THEIR OPERATION OF MOTOR VEHICLES IN THE SCOPE OF THEIR EMPLOYMENT, AND FOR OTHER PURPOSES

APRIL 25, 1961.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. LANE, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 2883]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2883) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, line 7, strike "employer" and insert "employee".

PURPOSE OF THE AMENDMENT

The purpose of the amendment recommended by the committee is to correct the spelling of the word "employee" in line 7 on page 2 of the bill. This is the amendment referred to in the April 11, 1961, communication for the General Services Administration.

PURPOSE

The purpose of the proposed legislation is to amend section 2679 of title 28, United States Code, to provide that the remedy against the United States provided by the tort claims provisions of that title for damage to property, personal injury or death resulting from the operation of a motor vehicle by an employee of the United States within the scope of his employment shall be exclusive of any other

civil action or proceeding by reason of the same subject matter against the employee involved or his estate. The bill provides for notice to the U.S. attorney of the commencement of any action against an employee, and for the defense of any such action by the Attorney General with the requirement that those actions be removed to a U.S. district court for trial. The Attorney General would be granted authority to settle such claims in accordance with the authority presently contained in section 2677 of title 28.

STATEMENT

H.R. 2883 was introduced in accordance with the recommendation of an executive communication sent the Congress by the General Services Administration. Its provisions are identical with H.R. 7577 of the 86th Congress which passed the House on July 6, 1959. H.R. 7577 was amended in the Senate, and the language added at that time gave rise to a Presidential veto. Another bill, H.R. 12620, was introduced on June 14, 1960, which contained the same provisions as H.R. 7577 and omitted the language objected to in the veto message. That bill was favorably reported by the committee and passed the House, but no action was taken by the Senate prior to the adjournment of the Congress. The House has, therefore, on two previous occasions taken favorable action on bills which contained the provisions of H.R. 2883.

The provisions of H.R. 2883 are intended to meet the existing problem of personal liability of U.S. employees who must drive motor vehicles as a part of their jobs. The Federal Tort Claims Act made it possible for individuals to bring tort actions against the Government in the Federal courts. However, the provisions of that act as now codified in title 28 of the United States Code do not afford a Government employee relief in those instances where an action is brought against him alone. Thus, the authority is provided in title 28 for the bringing of suits against the United States based upon the very accidents which may also give rise to suits against the individual drivers. The tort claims provisions of title 28 further provide for the administrative settlement of claims up to \$2,500 under the same circumstances. The result of the situation is that all of the persons who operate vehicles for the United States face the possibility of being sued as individuals for incidents which occur while they are performing duties in behalf of the Government.

Each session of the Congress a number of private bills are introduced to grant relief to individual employees who have been proceeded against in this manner. Each of these bills is referred to the Committee on the Judiciary with the result that this committee is fully aware of the problem and the inherent unfairness of the situation. The facts of these cases demonstrate that both from the standpoint of judicial procedure, and from the standpoint of justice to employees, the amendments proposed in the bill should be enacted. The number of suits filed against individual Federal drivers is a comparatively small number as compared to the number of matters handled under the terms of the tort claims provisions of title 28, and those cases which have resulted in judgments against the drivers and have become the subjects of private bills have generally involved small amounts. Under normal circumstances the injured party prefers to bring his action against the United States rather than against a man of limited

resources who happened to have been driving the Government vehicle. As would be expected, when the action has been brought against the individual driver the judgments involved have been for relatively small amounts, but those judgments work a real hardship on the employee. While the Government has adopted a general policy of affording counsel and representation to employees sued in this manner, this does not help when a judgment has been entered against the man. The employee is then faced with the alternative of settling the judgment or of prosecuting an appeal. Because of the additional expense and difficulty involved with an appeal, the employee is often forced to settle the matter by paying the judgment.

The problem of the Government driver in this situation has been clearly demonstrated by those cases which gave rise to the private relief bills considered by this committee. In one case an individual had submitted his claim under the Tort Claims Act for administrative settlement, and had been turned down on the ground that the accident had resulted from his own negligence rather than from the actions of the Government driver. The claimant then secured a judgment against the driver in a State court, and the driver was required to pay that judgment. The department concerned made a favorable report on the bill to this committee, but, apart from the enactment of the private bill, nothing could be done for the driver. Another similar instance was the subject of a private bill case before this committee in which a claimant filed a claim under the Tort Claims Act, and then decided to press for judgment against the driver in a State court. He proceeded to judgment, and the driver was forced to pay.

This problem concerning the liability of its employees is a matter of direct concern to the United States. The threat of this sort of liability to all Government employees who must operate vehicles in the course of their employment has an adverse effect on the efficiency and morale of those employees. This relationship between the Government and its employees was considered by the Supreme Court in the case of *United States v. Gilman* (347 U.S. 507 (1954)), and the Court made this statement concerning the importance of that relationship to the conduct of governmental affairs:

The relations between the United States and its employees have presented a myriad of problems with which the Congress over the years has dealt. Tenure, retirement, discharge, veterans' preferences, the responsibility of the United States to some employees for negligent acts of other employees—these are a few of the aspects of the problem on which Congress has legislated. Government employment gives rise to policy questions of great import, both to the employees and to the executive and legislative branches.

The contents of the communication of the General Services Administration clearly show this vital interest of the United States in solving this problem. In its communication, the General Services Administration notes that the Federal Government is steadily increasing its use of motor transport as a part of its day-to-day operations. Since the Government must continue to utilize motor vehicles to render its required services, it must be recognized that those vehicles must be operated by competent and reliable drivers. The threat of personal liability hardly aids in attracting and holding the responsible sort of employee required for such work.

The bill, H.R. 2883, embodies the language recommended to the Congress in the executive communication of the General Services Administration. The representatives of the agencies of Government which are affected by this problem have discussed this situation, and have determined that the amendment proposed in H.R. 2883 to title 28 of the United States Code will provide the necessary relief with greater simplicity in administration, and with far less expense to the Government than would be possible were the Government empowered to indemnify its employees against loss or to provide them with liability insurance. This bill provides the practical and logical way of meeting the problem by amending the tort claims provisions of title 28 so that suits against the employee-drivers will be tried as tort claims actions asserted against the United States. This is a logical approach for the relevant section of that title, section 1346(b) presently provides that such actions may be brought against the United States when they are based on injury, loss of property, personal injury, or death caused by—

* * * the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment, under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred.

This committee feels that this approach provides for the practical resolution of this lack in the law concerning the liability of Government drivers, and has the additional merit of benefiting the Government by increasing the morale of its employees by removing the threat of such suits against them in their individual capacities.

ANALYSIS OF THE BILL

Section 2679 of title 28 of the United States Code would be amended by the addition of four new subsections. Subsection (b) is the basic provision of the bill, for it makes the remedy provided by section 1346 (b) of title 28, relating to tort actions against the United States, the sole remedy for property damage, personal injury, or death resulting from the operation of a motor vehicle by a Government employee in the scope of his employment. This would exclude suits against employees in their individual capacities on the same claims. Therefore, the new language would only apply when the employee is acting in his official capacity at the time of the incident giving rise to the claim, and does not provide the basis for any liability against the United States based on the unauthorized use of Government motor vehicles. The communication of the General Services Administration cites section 5 of the Suits in Admiralty Act (45 U.S.C., sec. 745), as a precedent for this provision. That act provides that the remedy by suit against the United States provided therein with respect to vessels or cargoes owned, operated, or possessed by the United States shall be exclusive of any other action by reason of the same subject matter against the agent or employee of the United States whose act or omission gave rise to the claim. Similarly, the provisions of section 1498 of title 28 grants the owner of a patent the remedy of an action against the United States in place of his claim against a Government contractor for infringement of a patent. In providing a right of action

against the United States, this statute has been construed to give the owner of the patent the exact equivalent of the right against the contractor (*Richmond Co. v. United States*, 275 U.S. 331 (1928)).

The provisions of H.R. 2883 make specific reference to section 1346(b) concerning tort actions against the Government, and further reference is made to an employee's estate so that the remedy against the United States is made exclusive as to any action against the employee's estate as well as against the employee.

The specific purpose of protecting Government drivers against the hazard of being subjected to suits is implemented by subsections (c) and (d) set forth in the bill. These subsections provide procedures for handling cases which would fall within the categories actions described in subsection (b) added by the bill. Subsection (c) provides that the interested agencies of the United States shall be given notice so that the employee can be defended by the Attorney General. In this connection it is provided that—

The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government for any such damage or injury.

H.R. 2883 provides that the employee is to deliver, within the period fixed for such cases by the Attorney General, a copy of all process served upon him to his immediate superior or to the person designated to receive such papers. The person designated to receive those papers is to immediately furnish copies to the U.S. attorney, the Attorney General, and to the head of the employing agency. It is intended that this provision will have the effect of assuring that employees will be assisted in obtaining the aid contemplated in the bill.

Subsection (d) requires that any such action brought in a State court shall be removed before trial to the U.S. district court for the district and division for the place in which the action is pending. In the U.S. district court the proceedings are to be deemed a tort section against the United States under title 28. After removal, if the U.S. district court should determine on a hearing on a motion to remand held before trial on the merits that there is no remedy within the meaning of subsection (b) against the United States, the case shall be remanded to the State court. This provides for a prompt determination of the question of whether a remedy exists within the framework of the Federal tort claims provisions of title 28. The express recognition of a right to have a case remanded for further proceedings in the State court in the event of a determination that there is no remedy within the meaning of subsection (b) assures the continuity of the proceeding so that the applicable statute of limitations will not run and have the effect of barring a remedy against the individual driver where he is found not to have been entitled to the protection contemplated in this bill.

Subsection (e) grants the Attorney General the authority to settle cases in the same manner as he now does under section 2677 of title 28. The committee feels that this is a particularly important provision, for there may be cases in which the Attorney General will find it is to the advantage of the United States to settle the matter at the earlier stages of the proceeding. In those instances where the proceeding is commenced in a State court this settlement can be effected before removal to a U.S. district court. This makes possible the elimination of unnecessary delay and difficulty to everyone concerned, for if the

case is a proper one for settlement it is only logical to provide authority for settlement without requiring removal to the Federal court.

Section 2 provides that the amendments provided for in the bill are to take effect 6 months after enactment. It is further expressly provided in that section that any rights or liabilities existing at that time are not to be affected.

CONCLUSION

The committee has concluded that the facts presented at the hearings previously held on this matter and outlined in this report and in the communication from the General Services Administration clearly show the need for the amendment to title 28 provided for in H.R. 2883. Therefore the committee recommends that the bill be considered favorably.

The communications of the General Services Administration are as follows:

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., April 11, 1961.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is with further reference to your letter of February 18, 1961, requesting an expression of the views of the General Services Administration on H.R. 2883, a bill to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This bill is an item in the legislative program of the General Services Administration for the 87th Congress, 1st session.

As to the text of H.R. 2883, our only comment is that on page 2, line 7, of the bill the word "employer" should be changed to read "employee".

The General Services Administration has for several years advocated the remedial legislation embodied in H.R. 2883, namely, amendment of the Federal Tort Claims Act whereby the Federal Government would assume responsibility for the personal liability of its employees for claims for damage to property or for personal injury resulting from the operation by them of vehicles in the scope of their employment.

This agency's letter to the Speaker of the House of Representatives dated January 9, 1961, enclosing a draft bill identical with H.R. 2883 (except for the above noted word "employer"), gives a full explanation of the background, and the need for enactment of such legislation. Copy of this letter is attached for your ready reference.

The General Services Administration urges early and favorable action on H.R. 2883.

The Bureau of the Budget has advised that, from the standpoint of the administration's program, there is no objection to the submission of this report to your committee.

Sincerely yours,

JOHN L. MOORE, *Administrator.*

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 9, 1961.

HON. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is enclosed for your consideration a draft of a bill to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This legislative proposal is designed to solve the problem of the personal liability in suits for damages to which employees of the Federal Government are subject as a result of their operation of motor vehicles in the performance of official duties. The objective would be attained by an amendment of the Federal Tort Claims Act (28 U.S.C. 171).

That act, which in effect gives general consent for tort suits against the Government itself brought in Federal courts, does not, in its present form, afford to the Government employee relief or protection against damages assessed against him personally when sued in a State court. While Government employees driving motor vehicles in the course of their official duties may protect themselves from liability by obtaining insurance, they must pay for it out of their own pockets.

The increasing use of motor transport by the Federal Government as a part of its day-to-day operations, coupled with the augmented costs of public liability and property damage insurance coverage available to Federal employees to protect themselves in the operation of vehicles on Government business, has imposed a heavy financial burden on the large number of such employees whose work entails their driving of motor vehicles on behalf of the Government and who, as a matter of prudent self-protection, purchase insurance to protect themselves from personal liability. Few of these employees are in the high- or even medium-pay grades. It is not, therefore, surprising that they complain because of their assuming what they regard as an inequitable burden, and one of which they feel that the Government, as their employer, should relieve them. It is our understanding that drivers of fleet trucks and other vehicles for private concerns are not ordinarily required to provide their own insurance protection.

It is, accordingly, the opinion of the General Services Administration, apparently shared by a number of other Government agencies with the representatives of which we have had informal discussions, that the Federal Government should, by one means or another, assume responsibility for claims and damages against its employees arising from the operation by them of vehicles in the scope of their Government employment.

A number of legislative proposals have been made to afford relief in the aforementioned situation. Some of the bills would provide for indemnification of drivers against liability arising out of their operation of motor vehicles in the performances of their official duties for the Government. In this type of legislation the Federal agency concerned would be required to pay the driver after his liability has been determined in court and he has satisfied the judgment of the court; to pay the person suffering the damage or injury if the judgment of

the court is not satisfied; and to settle and pay claims not reduced to judgment. Provision is also made that costs of defending suits shall be borne by the United States, and, in addition, that the concerned Federal agency reimburse the employee driver for counsel retained by him. This type of legislation, however, presents the likelihood of considerable difficulties in administration and of heavy expense to the Government, and is open to the further criticism that, as to actions in State courts, judgments payable by the Government would usually be obtained by trial by jury, a procedure at variance with the requirement expressed in 28 United States Code 2402, that actions against the United States under the Federal Tort Claims Act shall be tried by the court without a jury.

An alternative solution of the problem of the personal liability of the employee driver has been suggested in the form of legislation to provide for the procurement by the Government, at its expense, of insurance covering its civilian officers and employees against liability for damage to property or for personal injury, including death, resulting from the use of motor vehicles by such officers or employees in the performance of official Government duties. Several bills which have been introduced include this insurance proposal, of which H.R. 2004 of the 85th Congress is an example.

However, after exploration, and discussion with representatives of interested agencies, we believe that the procurement by the Government of liability insurance would entail substantial and needless expense. It is felt that the enclosed legislative proposal, which would attack the problem by way of amendment to the Federal Tort Claims Act, and which has been evolved after considerable discussion with representatives of other interested agencies, will afford the needed relief both with greater simplicity in administration and with far less expense to the Government than would be entailed by either the indemnification or the insurance bills. By this amendment the handling of the suits against the employee driver personally would be fitted into the existing mechanism afforded by the Federal Tort Claims Act, and it is hard to conceive that the yearly amounts which would be paid out by the Government under the measure, including costs of administration, would ever amount to more than an insignificant fraction of the disbursements which would be made annually by the Government for premiums to protect its employee drivers against liability for property damage and personal injury under the insurance proposal.

In the first place, the enactment of the Federal Tort Claims Act amendment would greatly reduce the amounts which the Government now pays out under private bills from time to time enacted for the relief of individual Government drivers who have suffered liability. Another point for consideration is that the Department of Justice, having in mind the amenability of the United States to suits for acts of its employees under the Federal Tort Claims Act, has for some time, for the protection of the Government, been following the general policy of affording counsel and representation to Government employees who are sued in their personal capacity as a result of the performance of their official duties. Thus the provision of the enclosed bill for defense by the Attorney General of actions against driver employees should not impose any great new burden on that Department in terms of either administration or expense. Furthermore, experience shows that comparatively few suits are

brought against employee drivers in their personal capacities in State courts. The plaintiff normally sues the United States under the Federal Tort Claims Act and thus enjoys the assurance of solvency in the prospective judgment debtor. However, such suits against the employee driver personally are, from time to time, instituted, and it is to protect himself against the risk of liability being established against him in such a suit that the driver, as a matter of prudence, purchases liability insurance out of his own pocket. Thus it is not anticipated that under the amendment appearances by U.S. attorneys in actions in State courts or their participation in settlements or removals to U.S. district courts will be frequent.

With all relevant factors in mind, we feel it fair to estimate that the additional administrative cost which would result from enactment of the proposed bill should not, when spread throughout the Government, exceed \$100,000 annually. Insofar as GSA is concerned, enactment would not affect its budgetary requirements.

The enactment of this amendment for the protection of the Government driver would afford the relief desired by him, for there would be then no point in his spending his own funds to take out liability insurance to protect him while operating motor vehicles in the scope of his employment for the Government. For the Government, enactment of this proposal would not only have the advantage of leading to an increase in morale among a large segment of its employees, but also would obviate the necessity of introduction in the Congress of private relief bills which necessarily, for their proper consideration, impel considerable expenditure of time and effort within the executive branch and on the part of Senators and Representatives and congressional committee staffs.

The enclosed draft bill consists of merely two sections, the first amending section 2679 of title 28 of the United States Code, which is a part of the Federal Tort Claims Act, and the second fixing the effective date at 6 months after enactment but preserving any rights or liabilities then existing.

Section 2679 would be amended by the addition thereto of four new subsections, designated in the draft bill as (b), (c), (d), and (e).

Subsection (b) makes action against the United States the sole remedy for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle in the scope of his Federal office or employment, and thus would exclude suits in State courts against such employee personally on the same claim. This provision is to be read in connection with the new subsection (d) authorizing removal of actions from State courts to U.S. district courts hereinafter discussed. It will be noted that the remedy against the United States is allowed only when the action arises from the operation of the vehicle by the employee while acting within the scope of his office or employment. Obviously, the Government would not be subject to any liability for acts of the employee resulting from unauthorized use by him of Government motor vehicles. The making of the remedy against the United States the exclusive remedy finds precedent in section 5 of the Suits in Admiralty Act, as amended (46 U.S.C. 745), which provides that the remedy by suit against the United States provided by the act with respect to vessels or cargoes owned, operated, or possessed by the United States shall be exclusive of any other action by reason of

the same subject matter against the agent or employee of the United States whose act or omission gave rise to the claim.

The new subsection (c) would require the Attorney General to defend any civil action or proceeding brought in any court against any employee of the United States for damage to property or for personal injury resulting from the operation by the employee of any motor vehicle while acting within the scope of his office or employment. Provision is made in the subsection for delivery of copies of process served upon such employee to his immediate superior, to the U.S. attorney for the district embracing the place wherein the suit is brought, to the Attorney General and to the head of the employee's agency.

Subsection (d) requires that any such suit against the employee driver commenced in a State court shall be removed at any time before trial by the Attorney General to the district court of the United States for the district embracing the place where the suit is pending, and provides that the suit shall then be deemed a tort action brought against the United States. After removal, if the U.S. district court should determine, on a hearing on a motion to remand held before trial on the merits, that there is no remedy within the meaning of subsection (b) against the United States, the case shall be remanded to the State court. Provision is thus made in subsection (d) for a prompt determination of the question whether a remedy exists within the framework of the Federal Tort Claims Act. The express recognition of the plaintiff's right to have the case remanded for further proceedings in the State court in the event of a judicial determination that there is no remedy under subsection (b) assures the continuity of the proceeding in the State court so that the applicable statute of limitations will not run and have the effect of barring a remedy against the individual driver where he is found not to have been entitled to the protection contemplated in this bill.

Subsection (e) would authorize the Attorney General to compromise or settle any claim asserted in a suit commenced in a State court in the manner provided in 28 U.S.C. 2677, and with the same effect. Under the latter section the Attorney General, with the approval of the court, may arbitrate, compromise, or settle any claim against the United States under the Federal Tort Claims Act, after commencement of an action thereon in any Federal court.

As we have indicated heretofore, the proposed bill, being in the form of an amendment to the Federal Tort Claims Act, would make the suits and the other activities cognizable under the bill subject to the existing provisions of the Federal Tort Claims Act. For instance, the procedure provided by 28 U.S.C. 2672 for administrative adjustments and settlements by the head of a Federal agency of claims for money damages of \$2,500 or less against the United States would continue to be applicable to claims within that limit for damages to property or for personal injury resulting from the operation by any employee of the United States of any motor vehicle while acting within the scope of his office or employment. So, too, any award by the head of a Federal agency pursuant to 28 U.S.C. 2672, and any award, compromise, or settlement made by the Attorney General pursuant to 28 U.S.C. 2677 or pursuant to the new subsection (e) of the proposed bill would be paid by the head of the Federal agency concerned out of appropriations available to such agency. The term

“employee of the Government” used in the bill would be subject to the definition of that term contained in 28 U.S.C. 2671, which includes not only officers or employees of any Federal agency but also members of the military or naval forces of the United States. However, under the exceptions to the coverage of the Federal Tort Claims Act set forth in 28 U.S.C. 2680 there would be excluded from the operation of the proposed amendment any claims arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

For these reasons, GSA recommends early enactment of the proposed bill.

The Bureau of the Budget by letter dated December 28, 1960, advised that there is no objection to the transmittal of this legislative proposal to the Congress.

Sincerely yours,

FRANKLIN FLOETE, *Administrator.*

A BILL To amend title 28, entitled “Judiciary and Judicial Procedure”, of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol “(a)” at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

“(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

“(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the head of his employing Federal agency.

“(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the

place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

“(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.”

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

CHANGES IN EXISTING LAW

A. Changes in existing law as provided in H.R. 2883 as originally introduced.

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

2679. Exclusiveness of remedy.

(a) The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive.

(b) *The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employer or his estate whose act or omission gave rise to the claim.*

(c) *The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.*

(d) *Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by*

the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.

B. Changes in existing law as provided in H.R. 2883 with the correcting amendment recommended by the committee.

In compliance with paragraph 2 of clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

2679. Exclusiveness of remedy.

(a) The authority of any federal agency to sue and be sued in its own name shall not be construed to authorize suits against such federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive.

(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the

United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.



Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

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For actions of April 25, 1961
87th-1st, No. 69

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HIGHLIGHTS: House subcommittee voted to report bill to increase per diem travel rates. Senate subcommittee voted to report migratory labor bills relating to education, child labor, health services, and registration of contractors. House committee voted to report Delaware River Basin Compact bill.

SENATE

- FARM LABOR.** The Migratory Labor Subcommittee of the Labor and Public Welfare Committee voted to report to the full committee the following bills: p. D276
 - S. 1123, to exempt migratory labor children above certain ages from the child labor provisions of the Fair Labor Standards Act of 1938;
 - S. 1124, to provide Federal assistance in providing improved educational opportunities for children of migratory farm workers;
 - S. 1125, to provide Federal assistance for the adult education of migratory farm workers;
 - S. 1126, to provide for the registration of contractors of migratory farm workers;
 - S. 1130, to authorize the Public Health Service to make grants for improving health services and conditions for migratory farm workers; and
 - S. 1132, to provide for the establishment of a National Citizens Council on Migratory Labor.

HOUSE

- FOREIGN AID.** By a vote of 330 to 82, passed without amendment H. R. 6518, making appropriations of \$500 million for the Inter-American Social and Economic Cooperation Program and the Chilean Reconstruction and Rehabilitation Program

for the fiscal year ending June 30, 1961. Rep. Conte stated that it is anticipated that this act will provide \$4 million for agriculture extension in Latin America. pp. 6243-70

3. TEXTILES. Rep. Hemphill deplored the present trend in the textile industry, saying "We have finally come to the point where ... either the textile industry is going to get some sympathy, or there is not going to be any textile industry." pp. 6274-81
4. WATER POLLUTION. The Public Works Committee reported with amendment H. R. 6441 to amend the Federal Water Pollution Control Act to provide for a more effective program of water pollution control (H. Rept. 306). p. 6288
5. VEHICLES. The Judiciary Committee reported with amendment H. R. 2883 to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment (H. Rept. 297). p. 6287
6. LANDS. The Interior and Insular Affairs Committee reported ^{/without amendment} H. R. 5416, to include within the boundaries of Joshua Tree National Monument in California, certain Federally owned lands used in connection with the monument (H. Rept. 298). p. 6287
7. PERSONNEL. The Government Operations Committee voted to report (but did not actually report) H. R. 3279, to increase the maximum rates of per diem allowance for employees of the Government travelling on official business. p. D278
8. DELAWARE RIVER BASIN COMPACT. The Judiciary Committee voted to report (but did not actually report) H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin Compact and to enter into such compact on behalf of the U. S. p. D278
9. TAXATION. The Ways and Means Committee voted to report (but did not actually report) H. R. 6413, to extend to fishermen the same treatment accorded farmers in relation to estimated income tax. p. D273

ITEMS IN APPENDIX

10. FARM PROGRAM. Rep. Short inserted an editorial discussing family farming operations and stating that "family farming, as we think of it, is going to be around for a long time." pp. A2794-5
Rep. Stratton inserted an editorial discussing the importance of Otsego County, N. Y., as an agricultural area. p. A2795
Rep. Short inserted an article opposing the proposal in the President's farm message "which calls for referendums under which a two-thirds vote of farmers could put a commodity under Federal controls." p. A2798
11. RURAL INDUSTRY. Rep. Moeller commended "the increased interest of the Department of Agriculture in the development of our rural areas," and inserted a newspaper article, "Rural Industry Agency Is Freeman Objective." pp. A2793-4
12. ELECTRIFICATION. Rep. Kastenmeier inserted a speech by REA Administrator Clapp before the Western Farmers Electric Cooperative in Anadarko, Okla., "A Secure Supply of Power," in which he discusses the Administration's program for rural electrification. pp. A2803-4

87TH CONGRESS
1ST SESSION

H. R. 2883

[Report No. 297]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 18, 1961

Mr. CELLER introduced the following bill; which was referred to the Committee on the Judiciary

APRIL 25, 1961

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Omit the part struck through and insert the part printed in italic]

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2679 of title 28, United States Code, is amended
4 (1) by inserting the subsection symbol "(a)" at the begin-
5 ning thereof and (2) by adding immediately following such
6 subsection (a) as hereby so designated, four new subsections
7 as follows:

8 “(b) The remedy by suit against the United States as

1 provided by section 1346 (b) of this title for damage to
2 property or for personal injury, including death, resulting
3 from the operation by any employee of the Government of
4 any motor vehicle while acting within the scope of his office
5 or employment, shall hereafter be exclusive of any other
6 civil action or proceeding by reason of the same subject mat-
7 ter against the ~~employer~~ *employee* or his estate whose act or
8 omission gave rise to the claim.

9 “(c) The Attorney General shall defend any civil action
10 or proceeding brought in any court against any employee
11 of the Government or his estate for any such damage or
12 injury. The employee against whom such civil action or
13 proceeding is brought shall deliver within such time after
14 date of service or knowledge of service as determined by
15 the Attorney General, all process served upon him or an
16 attested true copy thereof to his immediate superior or
17 to whomever was designated by the head of his department
18 to receive such papers and such person shall promptly fur-
19 nish copies of the pleadings and process therein to the
20 United States attorney for the district embracing the place
21 wherein the proceeding is brought, to the Attorney General,
22 and to the head of his employing Federal agency.

23 “(d) Any such civil action or proceeding commenced in
24 a State court shall be removed without bond at any time
25 before trial by the Attorney General to the district court

1 of the United States for the district and division embracing
2 the place wherein it is pending and the proceedings deemed a
3 tort action brought against the United States under the
4 provisions of this title and all references thereto. Should a
5 United States district court determine on a hearing on a
6 motion to remand held before a trial on the merits that the
7 case so removed is one in which a remedy by suit within
8 the meaning of subsection (b) of this section is not available
9 against the United States, the case shall be remanded to the
10 State court.

11 “(e) The Attorney General may compromise or settle
12 any claim asserted in such civil action or proceeding in the
13 manner provided in section 2677, and with the same effect.”

14 SEC. 2. The amendments made by this Act shall be
15 deemed to be in effect six months after the enactment hereof
16 but any rights or liabilities then existing shall not be affected.

[Report No. 297]

A BILL

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

By Mr. CELLER

JANUARY 18, 1961

Referred to the Committee on the Judiciary

APRIL 25, 1961

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE

(For Department
Staff Only)

Issued May 2, 1961
For actions of May 1, 1961
87th-1st, No. 72

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HIGHLIGHTS: President approved depressed areas bill. Conferees agreed to file report on minimum wage bill. Rep. Cunningham introduced and discussed bill to establish Department of Small Towns and Rural Affairs.

HOUSE

1. FARM LABOR. Rep. Sisk reported from the Rules Committee a resolution for the consideration of H. R. 2010, to extend the Mexican farm labor program for an additional 2 years until December 31, 1963. pp. 6529, 6538
2. MINIMUM WAGE. Conferees agreed to file a report on the differences between the Senate-and House-passed versions of H.R. 3935, the minimum wage bill (p. D297). The "Daily Digest" states as follows: "As agreed by the conferees, the bill would (1) extend minimum wage coverage to approximately 3.6 million workers (provisions for extended coverage to employees of laundry establishments and automobile dealers were deleted from the bill), (2) establish the 5-year escalation period to reach the minimum wage of \$1.25, and the 40-hour workweek, and (3) adopt the so-called inflow test, which means that retail and service enterprises would be covered by the bill, only if they met the following test: (a) the employer must be engaged in commerce or the production of goods for commerce, (b) the employer must receive \$250,000 worth of goods, for resale, which have moved across State lines (so-called 'inflow' test), and (c) the employer must have an annual gross volume of sales of not less than \$1 million, exclusive of excise taxes at the retail level."
3. SEEDS; RESEARCH. Passed as reported H. R. 2041, to remove the restriction on the interstate shipment of water-hyacinth plants or seeds to certain areas where the plants are unable to survive winter weather. p. 6522

4. ADMINISTRATIVE ORDERS. Passed without amendment H.R. 5656, to provide for reasonable notice of applications to the U. S. courts of appeals for interlocutory relief against the orders of certain administrative agencies. p. 6522
5. PUBLIC LANDS. Passed as reported H.R. 2280, to provide for the withdrawal of certain public lands 40 miles east of Fairbanks, Alaska, for use by the Department of the Army as a Nike range, and H. R. 2281, to reserve for use by the Department of the Army at Fort Richardson, Alaska, certain public lands in the Campbell Creek area. pp. 6524-5
6. VEHICLES. Passed as reported H.R. 2883, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. p. 6526
7. LANDS. Passed without amendment H. R. 5416, to include within the boundaries of Joshua Tree National Monument in California, certain donated lands used in connection with the monument. pp. 6526-7
8. URBAN AFFAIRS. Rep. Green, Oreg., inserted a resolution from the Portland Association of Building Owners and Managers commending the President's decision to create a Department of Urban Affairs. p. 6528
9. GOVERNMENT ETHICS. Received from the President a draft of a proposed bill "to supplement and revise the laws prescribing restrictions against conflicts of interest applicable to employees of the executive branch of the Government of the United States"; to Judiciary Committee. p. 6537
10. IMPORTS. The Ways and Means Committee voted to report (but did not actually report) H. R. 6611, to reduce temporarily the exemption from duty enjoyed by returning U. S. residents. p. D297
11. WITHHOLDING TAX. The Ways and Means Committee voted to report (but did not actually report) H. R. 2017, providing for the withholding of income taxes on the compensation of Federal employees for purposes of the income tax imposed by certain cities. p. D297
12. TOBACCO. The Ways and Means Committee voted to report (but did not actually report) H.R. 4940, to provide for the modification of import duties on certain types of Philippine tobacco. p. D297

SENATE

13. FORESTRY. Sen. Wiley inserted a letter from the general chairman of the Lake States Forest Fire Research Conference favoring an expanded program of research on new methods for control of forest fires. p. 6498
14. RESEARCH. Received from GSA the semi-annual report on contracts negotiated for experimental, developmental, and research work. p. 6477
15. FOREIGN AID. Sen. Wiley inserted several letters from business leaders favoring greater utilization of private enterprise to support and further the objectives of U. S. foreign policy. pp. 6492-6
16. NOMINATION. Confirmed the nomination of Richard M. Scammon to be Director of the Census Bureau. p. 6517
17. LEGISLATIVE PROGRAM. Sen. Mansfield stated that the conference report on H. R. 3935, the minimum wage bill, will probably be considered on Wed. p. 6476

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RESERVING FOR USE BY THE DEPARTMENT OF THE ARMY AT FORT RICHARDSON, ALASKA, CERTAIN PUBLIC LANDS IN THE CAMPBELL CREEK AREA

The Clerk called the bill (H.R. 2281) to reserve for use by the Department of the Army at Fort Richardson, Alaska, certain public lands in the Campbell Creek area, and for other purposes.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to valid existing rights the public lands aggregating approximately four thousand seven hundred and six acres in the Campbell Creek Area, Alaska, withdrawn from the public domain by Public Land Order 2029 and described in detail in the Federal Register of December 19, 1959, page 10310 (Federal Register Document 59-10755; filed, December 18, 1959; 8:46 antemeridian), are hereby reserved for the use of the Department of the Army in conjunction with Fort Richardson for a period of ten years or, if extended by the Secretary of the Interior for a period of fifteen years, or for any shorter period as may be determined by the Secretary of the Army upon notice to the Secretary of the Interior.

(b) The Secretary of the Interior may, with the concurrence of the Secretary of the Army, authorize use or disposition of any of the land or resources withdrawn and reserved by subsection (a) of this section.

(c) Upon the final termination of the reservation effected by this Act, the Secretary of the Interior shall provide for the appropriate disposition of the lands under the public land laws and other laws existing at the time of such termination. Nothing in this subsection, however, shall be construed to prevent the Secretary of the Army at that time from making application for further withdrawal and reservation of the lands involved under laws and regulations then existing.

With the following committee amendments:

Page 2, line 9, strike out the words "withdrawn and".

Page 2, line 18, strike out the words "the lands involved" and insert in lieu thereof the words "all or part of said lands".

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR WITHDRAWAL FROM THE PUBLIC DOMAIN CERTAIN LANDS IN THE LADD-EIELSON AREA, ALASKA

The Clerk called the bill (H.R. 2282) to provide for the withdrawal from the public domain of certain lands in the Ladd-Eielson area, Alaska, for use by the Department of the Army as the Yukon Command training site, Alaska, and for other purposes.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights the public lands aggregating approximately two hundred and fifty-six thousand acres in the Ladd-Eielson area, fourth judicial division, Alaska, as more fully described in application (serial number Fairbanks 020174) from the Department of the Army to the Department of the Interior and set forth in the Federal Register of July 31, 1958, page 5804 (Federal Register Document 58-5837; filed, July 31, 1958; 8:47 antemeridian), are hereby withdrawn from all forms of appropriation under the public land laws including the mining and mineral leasing laws and disposals of materials under the Act of July 31, 1947, as amended (60 Stat. 681; 30 U.S.C. 601-604), and reserved for the use of the Department of the Army as the Yukon Command training site for a period of ten years or, if extended by the Secretary of the Interior for a period of fifteen years, or for any shorter period as may be determined by the Secretary of the Army upon notice to the Secretary of the Interior.

(b) The Secretary of the Interior may, with the concurrence of the Secretary of the Army, authorize use or disposition of any of the lands or resources withdrawn and reserved by subsection (a) of this section.

(c) Upon the final termination of the reservation effected by this Act, the Secretary of the Interior shall provide for the appropriate disposition of the lands under the public land laws and other laws existing at the time of such termination. Nothing in this subsection, however, shall be construed to prevent the Secretary of the Army at that time from making application for further withdrawal and reservation of the lands involved under laws and regulations then existing.

With the following committee amendments:

Page 2, line 5, strike out "60 Stat. 681;" and insert in lieu thereof "61 Stat. 681;".

Page 2, after line 15, add the following new subsection:

"(c) To the extent that the Secretary of the Army determines it to be consistent with military requirements and the public safety: (1) the lands withdrawn and reserved by this Act, or selected portions thereof, shall be open during legally established seasons for hunting, fishing, and trapping, and military operations affecting the same shall be suspended during such periods and (2) access across the lands, or selected portions thereof, shall be permitted to public hunting, fishing, and trapping areas."

Page 2, line 16, strike out all of subsection (c) and insert in lieu thereof the following:

"(d) Upon request of the Secretary of the Interior at the time of final termination of the reservation effected by this Act, the Department of the Army shall make safe for nonmilitary uses the land withdrawn and reserved, or such portions thereof as may be specified by the Secretary of the Interior, by neutralizing unexploded ammunition, bombs, artillery projectiles, or other explosive objects and chemical agents. Thereafter the Secretary of the Interior, pursuant to law, shall provide for the appropriate use or disposition of all or any part of the land withdrawn and reserved under provisions of this Act. Nothing in this subsection, however, shall be construed to prevent the Secretary of the Army at that time from making application for further withdrawal and reservation of all or part of said lands under laws and regulations then existing."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LANDS IN BIG DELTA AREA, ALASKA

The clerk called the bill (H.R. 2283) to provide for the withdrawal from the public domain of certain lands in the Big Delta area, Alaska, for continued use by the Department of the Army at Fort Greely, and for other purposes.

There being no objection, the clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to valid existing rights public lands aggregating approximately five hundred and seventy-two thousand areas of land in the Big Delta area, Fairbanks recording precinct, fourth judicial division, Alaska, as more fully described in application (serial number Fairbanks 019269) from the Department of the Army to the Department of the Interior and set forth in the Federal Register May 8, 1958, page 3071 (Federal Register Document 58-3480; filed, May 7, 1958; 8:53 antemeridian), are hereby withdrawn from all forms of appropriation under the public lands laws including the mining and mineral leasing laws and disposals of materials under the Act of July 31, 1947, as amended (60 Stat. 681, 30 U.S.C. 601-604), and reserved for the use of the Department of the Army as the Fort Greely maneuver area for a period of ten years, or if extended by the Secretary of the Interior for a period of fifteen years, or for any shorter period as may be determined by the Secretary of the Army upon notice to the Secretary of the Interior.

(b) The Secretary of the Interior may, with the concurrence of the Secretary of the Army, authorize use or disposition of any of the lands or resources withdrawn and reserved by subsection (a) of this section.

(c) Upon the final termination of the reservation effected by this Act, the Secretary of the Interior shall provide for the appropriate disposition of the lands under the public land laws and other laws existing at the time of such termination. Nothing in this subsection, however, shall be construed to prevent the Secretary of the Army at that time from making application for further withdrawal and reservation of the lands involved under laws and regulations then existing.

With the following committee amendments:

Page 1, line 6, strike out the words "fourth judicial division,".

Page 2, line 6, strike out the statutory citation "60 Stat. 681." and insert in lieu thereof "61 Stat. 681;".

Page 2, after line 16, add the following new subsection:

"(c) To the extent that the Secretary of the Army determines it to be consistent with military requirements and the public safety: (1) the lands withdrawn and reserved by this Act, or selected portions thereof, shall be open during legally established seasons for hunting, fishing, and trapping, and military operations affecting the same shall be suspended during such periods and (2) access across the lands, or selected portions thereof, shall be permitted to public hunting, fishing, and trapping areas."

Page 2, line 17, strike out all of subsection (c) and insert in lieu thereof the following:

"(d) Upon request of the Secretary of the Interior at the time of final termination of the reservation effected by this Act, the Department of the Army shall make safe for nonmilitary uses the land withdrawn and reserved, or such portions thereof as may be specified by the Secretary of the Interior, by neutralizing unexploded ammunition.

bombs, artillery projectiles, or other explosive objects and chemical agents. Thereafter the Secretary of the Interior pursuant to law shall provide for the appropriate use or disposition of all or any part of the land withdrawn and reserved under provisions of this Act. Nothing in this subsection, however, shall be construed to prevent the Secretary of the Army at that time from making application for further withdrawal and reservation of all or part of said lands under laws and regulations then existing."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

FORT VANCOUVER NATIONAL MONUMENT, WASH.

The Clerk called the bill (H.R. 3288) to revise the boundaries and to change the name of Fort Vancouver National Monument, in the State of Washington, and for other purposes.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. GROSS. Mr. Speaker, reserving the right to object, is this changing Fort Vancouver from a monument to a national site?

Mrs. HANSEN. Yes, it is.

Mr. RUTHERFORD. Mr. Speaker, if the gentleman will yield, it is true that it changes it from a national monument to a national historic site, due to the historic significance.

Mr. GROSS. Then, what is entailed in the change of the designation of this from a monument to a national site? What does that mean in terms of money to the taxpayer?

Mr. RUTHERFORD. Nothing financially. There is no cost involved whatever.

Mr. GROSS. No additional cost whatsoever?

Mr. RUTHERFORD. No additional cost.

Mr. GROSS. Now or in the future?

Mr. RUTHERFORD. Well, as far as the future is concerned, I could not tell you that. There is nothing involved now.

Mr. GROSS. I withdraw my reservation of objection, Mr. Speaker.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of preserving certain historic properties associated with the Fort Vancouver National Monument, established pursuant to the Act of June 19, 1948, chapter 546 (62 Stat. 532; 16 U.S.C. 450ff-450ff-2), the Secretary of the Interior may revise the boundaries of the monument to include therein not more than one hundred and thirty additional acres of land adjacent to, contiguous to, or in the vicinity of, the existing monument.

SEC. 2. The Secretary of the Interior may acquire in such manner as he may consider to be in the public interest the non-Federal lands and interests in lands within the revised boundaries.

SEC. 3. The heads of executive departments may transfer to the Secretary of the Interior, without exchange of funds, administrative jurisdiction over such federally owned lands and other property under their administrative jurisdictions within the revised boundary as may become excess to the needs of their respective agencies, for inclusion in the Fort Vancouver National Monument.

SEC. 4. Fort Vancouver National Monument is redesignated Fort Vancouver National Historic Site.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES

The Clerk called the bill (H.R. 2883) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employer or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the head of his employing Federal agency.

"(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available

against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

With the following committee amendment:

Page 2, line 7, strike out "employer" and insert "employee".

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

JOSHUA TREE NATIONAL MONUMENT, CALIF.

The Clerk called the bill (H.R. 5416) to include within the boundaries of Joshua Tree National Monument, in the State of California, certain federally owned lands used in connection with said monument, and for other purposes.

There being no objection, the Clerk read the bill, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of September 25, 1950, chapter 1030 (64 Stat. 1033; 16 U.S.C. 4501i), is hereby amended by inserting after the period at the end of section 1 the following: "Also, all that portion of the south half of the northeast quarter and of the north half of the southeast quarter of section 33, township 1 north, range 9 east, San Bernardino base and meridian, in the county of San Bernardino, State of California, shown on map titled 'Record of Survey' by H. F. Cameron, Junior, licensed engineer 6826, dated December 29, 1948, and James B. Hommon, licensed engineer 6916, dated October 5, 1949, and made for the National Park Service, Department of the Interior, and recorded October 17, 1949, in volume 7, page 72, of the official records of the county of San Bernardino, said land being described as follows:

"Beginning at the United States Government Land Office monument marked as the east quarter corner of said section 33, thence proceeding on a true bearing south 89 degrees 02 minutes 10 seconds west a distance of 50.01 feet to the true point of beginning of the hereinafter described parcel of land;

"Thence north 0 degrees 02 minutes 55 seconds west a distance of 250.08 feet to a point of curve; thence along the arc of a curve to the left having a radius of 20.00 feet a distance of 31.73 feet to a point of tangency; thence south 89 degrees 02 minutes 40 seconds west a distance of 2,559.24 feet; thence south 0 degrees 19 minutes 50 seconds east a distance of 270.76 feet;

"Then south 0 degrees 21 minutes 02 seconds east a distance of 409.32 feet to the beginning of a curve; thence along the arc of a curve to the left having a radius of 280.98 feet a distance of 275.93 feet to a point of compound curvature; thence along the arc of a curve to the left having a radius of 800.00 feet a distance of 753.98 feet to a point of tangency; thence north 69 degrees 22 minutes 58 seconds east a distance of 125.31 feet to the beginning of a curve;

"Thence along the arc of a curve to the right having a radius of 1,400.00 feet a distance of 1,042.74 feet to a point of tangency; thence south 67 degrees 56 minutes 33 sec-

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE
(For information only;
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HIGHLIGHTS: House committee approved farm bill. Both Houses agreed to conference report on agricultural appropriation bill. Senate subcommittee approved bill to extend Mexican farm labor program. Sen. McCarthy urged legislation for higher wages for Mexican farm laborers. Sen. Williams, Del., criticized feed grains program. Sen. Anderson announced joint committee hearings on water resources bill for July 26. Senate committee reported legislative branch appropriation bill.

SENATE

1. AGRICULTURAL APPROPRIATION BILL, 1962. Both Houses agreed to the conference report on this bill, H. R. 7444, and acted on amendments in disagreement (pp. 11854-7, 11929-32). This bill will now be sent to the President. Action was taken on the amendments in disagreement as follows:

Amendment No. 4: Concurred in the Senate amendment providing that this Department shall have first priority of available foreign currencies arising from Public Law 480 activities, and providing \$5,265,000 for ARS for the purchase of such foreign currencies for market development research in foreign countries and for agricultural and forestry research in co-operation with foreign countries.

Amendment No. 5: Concurred in the Senate amendment providing that the Secretary of Agriculture may purchase land at a price not in excess of \$10 for construction of ARS facilities at Columbia, Mo.

Amendment No. 17: Concurred in a substitute amendment by Rep. Whitten to provide that \$10,000,000 of the appropriation for the school lunch program shall be available for assistance under sec. 6 of the National School Lunch Act, in addition to amounts normally expended for commodity procurement under that section, \$2,500,000 of which may be distributed to provide special assistance to needy schools which because of poor local economic conditions (1) have not been operating a school lunch program or (2) have been serving free or at substantially reduced prices at least 20 percent of the lunches to the children.

Amendment No. 19: Concurred in the Senate amendment providing that this Department shall have first priority to available foreign currencies arising from Public Law 480 activities, and providing \$3,444,000 for FAS for the purchase of such currencies for market development activities in foreign countries.

Amendment No. 22: Concurred in the Senate amendment providing that the 1962 ACP program may include related wildlife conservation practices whenever these practices are included as a part of the conservation program.

Amendment No. 23: Concurred in a substitute amendment by Rep. Whitten providing that hereafter not to exceed 10 percent (rather than 15 percent as proposed by the Senate) of the basic allocation of ACP funds for any State may be used to increase the State's preceding program.

Amendment No. 35: Concurred in the Senate amendment providing that the Secretary may transfer additional amounts to the appropriation for the Office of the General Counsel from other appropriations available to the Department for salaries and expenses for the current fiscal year, but that the appropriation for OGC shall not be increased by more than 7 percent by reason of such transfers.

Amendment No. 38: Concurred in the Senate amendment providing \$100,000 for planning, promoting, coordinating, and assisting participation by industry, trade associations, commodity groups, and similar interests in the celebration of the centennial of the establishment of the Department of Agriculture, including not to exceed \$20,000 for additional printing costs of the 1962 Yearbook of Agriculture.

2. FARM LABOR; LIVESTOCK DISEASES. The Subcommittee on Agricultural Research and General Legislation of the Agriculture and Forestry Committee approved for full committee consideration S. 860, to grant the Secretary of Agriculture additional authority for protection against the introduction and dissemination of diseases of livestock and poultry, and, with an amendment in the nature of a substitute, H. R. 2010, to extend the Mexican farm labor program. p. D582

Sen. McCarthy urged modification of the Mexican farm labor program to provide that growers, to be eligible to contract for Mexican nationals, must offer them wages at least equivalent to the average hourly farm wage in the State, or the national farm wage average, whichever is lesser, stated that this "provides an objective and reasonable criterion," and inserted several items on this matter. pp. 11955-7

3. PERSONNEL; MOTOR VEHICLES. The "Daily Digest" states that a subcommittee of the Judiciary Committee approved for "full committee consideration H. R. 2883 (S. 202), providing for defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment (amended)." p. D583

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE
(For information only;
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Issued August 15, 1961
For actions of August 14, 1961
87th- No. 139

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HIGHLIGHTS: House received supplemental appropriation estimates for food stock-piling. Senate debated foreign aid authorization bill. House began debate on foreign aid authorization bill. Senate passed bills for USDA and land-grant college centennial celebrations. Senate committee reported State-Justice appropriation bill. House received conference report on Treasury-Post Office appropriation bill. Sen. Wiley introduced and discussed bill for research on utilization and dairy products.

SENATE

- 1. FOREIGN AID.** Continued debate on S. 1983, the foreign aid authorization bill (pp. 14605-15, 14620-42, 14646). Pending at adjournment was an amendment by Sen. Fulbright, to the pending amendment by Sen. Saltonstall, to provide that development loans in excess of \$15,000,000 may not be made unless 30 days earlier a full report on the proposed loan has been made to the Senate Foreign Relations and the House Foreign Affairs Committees. The Saltonstall amendment provides for prior congressional approval of any development loans in excess of \$10,000,000 (pp. 14610-15, 14620-42).
- 2. CENTENNIALS.** Passed without amendment H. J. Res. 435, to provide for recognition of the centennial of the establishment of the Department of Agriculture, and H. J. Res. 436, to provide for the recognition of the centennial of the establishment of the national system of land-grant colleges and universities. These bills will now be sent to the President. p. 14603

3. APPROPRIATIONS. The Appropriations Committee reported with amendment H. R. 7371, the State-Justice appropriation bill for 1962 (S. Rept. 731), and H. R. 8302, the military construction appropriation bill for 1962 (S. Rept. 732). p. 14576

4. PERSONNEL. The Judiciary Committee reported with amendment H. R. 2883, to provide for the defense of suits against Federal employees arising out of the operation of motor vehicles in the scope of their employment (S. Rept. 736). p. 14576

Received from the Civil Service Commission a proposed bill "to amend section 7 of the Administrative Expenses Act of 1946, as amended"; to Post Office and Civil Service Committee. p. 14576

5. JUDGMENTS. The Judiciary Committee reported without amendment H. R. 6835, to simplify the payment of certain miscellaneous judgments and the payment of certain compromise settlements of State and foreign courts (S. Rept. 733). p. 14576

6. SURPLUS COMMODITIES; FOREIGN TRADE. Both Houses received from the President the semi-annual report on activities carried out under Public Law 480 (H. Doc. 223). pp. 14575, 14657

7. SOIL CONSERVATION. Sen. Neuberger inserted an article, "Specialized Water Forecasts Promising," discussing the specialized streamflow forecasts "made by Soil Conservation Service snow surveyors in the West to give irrigators more precise information as to when they may expect peak and other predetermined flows during the cropping season." pp. 14587-8

8. ELECTRIFICATION. Passed without amendment S. 1606, to authorize the Federal Power Commission to exempt small hydroelectric projects from certain of the licensing provisions of the Federal Power Act. p. 14598

9. PASSED OVER the following bills: p. 14605

S. 1368, to provide for continuation of the licensing of independent ocean freight forwarders.

S. 1130, to authorize grants to improve domestic agricultural migratory workers' health services and conditions.

S. 1126, to provide for the registration of contractors of migratory farm workers.

S. 1123, to exempt migratory labor children above certain ages from the child labor provisions of the Fair Labor Standards Act of 1938.

S. 1132, to provide for the establishment of a National Citizens Council on Migratory Labor.

S. 1124, to provide Federal assistance in providing improved educational opportunities for migratory farm workers.

HOUSE

10. APPROPRIATIONS. Received from the President supplemental appropriation estimates for fiscal year 1962 (H. Doc. 224); to Appropriations Committee (p. 14733). The document includes an item for this Department requesting \$47,200,000 for a new appropriation, "Emergency relocation of grain," for costs involved in moving and relocating approximately 126 million bushels of Commodity Credit Corporation-owned grain for use as a civil defense measure in the event normal food distribution channels are disrupted.

DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES

AUGUST 14, 1961.—Ordered to be printed

Mr. Johnston, from the Committee on the Judiciary, submitted
the following

R E P O R T

[To accompany H.R. 2883]

The Committee on the Judiciary, to which was referred the bill (H.R. 2883) to amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

AMENDMENTS

1. On page 2, line 23, strike out the word "Any" and insert in lieu thereof "With the consent of the plaintiff in any".
2. On page 2, line 24, strike out the word "shall" and insert in lieu thereof a comma and the words "such action or proceeding may".

PURPOSE OF AMENDMENTS

The purpose of the amendments is to provide that a civil action or proceeding commenced in a State court against an employee of the Government may not be removed to a district court of the United States without the consent of the plaintiff.

PURPOSE

The purpose of the bill, as amended, is to provide a method for the assumption by the Federal Government of responsibility for claims for damages against its employees arising from the operation by them of vehicles in the scope of their Government employment.

STATEMENT

Similar legislation was passed in the 86th Congress in the form of H.R. 7577, but was vetoed by the President. The committee is of the opinion that, irrespective of the Presidential view, the legislation is meritorious and should be again approved by the Congress for resubmission to the President.

H.R. 7577 of the 86th Congress, as passed by the House of Representatives, was based on a legislative recommendation submitted to the Congress by the General Services Administration, and strongly endorsed by the Post Office Department. In a communication to the Speaker of the House of Representatives dated January 9, 1961, the General Services Administration again submitted a draft of this proposal for consideration by the Congress. Following the introduction of the proposal in the form of H.R. 2883, the General Services Administration submitted a report on the bill and urged early and favorable action on the legislation.

The legislative proposal is the most recent of several proposals designed to meet the problem of personal liability in suits for damages to which employees of the Federal Government are subject as a result of their operation of motor vehicles in the performance of official duties.

In submitting the legislative proposal, Franklin Floete, Administrator, General Services Administration in his letter of January 9, 1961, which is printed in full below, wrote that it was—

the opinion of GSA, apparently shared by a number of other Government agencies with the representatives of which we have had informal discussions, that the Federal Government should, by one means or another, assume responsibility for claims and damages against its employees arising from the operation by them of vehicles in the scope of their Government employment.

The Administrator of General Services Administration commented further:

A number of legislative proposals have been made to afford relief in the aforementioned situation. Some of the bills would provide for indemnification of drivers against liability arising out of their operation of motor vehicles in the performance of their official duties for the Government. In this type of legislation the Federal agency concerned would be required to pay the driver after his liability has been determined in court and he has satisfied the judgment of the court; to pay the person suffering the damage or injury if the judgment of the court is not satisfied; and to settle and pay claims not reduced to judgment. Provision is also made that costs of defending suits shall be borne by the United States, and, in addition, that the concerned Federal agency reimburse the employee driver for counsel retained by him. This type of legislation, however, presents the likelihood of considerable difficulties in administration and of heavy expense to the Government, and is open to the further criticism that, as to actions in State courts, judgments payable by the Government would usually be obtained by

trial by jury, a procedure at variance with the requirement expressed in title 28, United States Code, section 2402, that actions against the United States under the Federal Tort Claims Act shall be tried by the court without a jury.

An alternative solution of the problem of the personal liability of the employee-driver has been suggested in the form of legislation to provide for the procurement by the Government, at its expense, of insurance covering its civilian officers and employees against liability for damage to property or for personal injury, including death, resulting from the use of motor vehicles by such officers or employees in the performance of official Government duties. Several bills which have been introduced include this insurance proposal, of which H.R. 2004 of the 85th Congress is an example.

However, after exploration, and discussion with representatives of interested agencies, we believe that the procurement by the Government of liability insurance would entail substantial and needless expense.

It is felt that the enclosed legislative proposal, which would attack the problem by way of amendment to the Federal Tort Claims Act, and which has been evolved after considerable discussion with representatives of other interested agencies, will afford the needed relief both with greater simplicity in administration and with far less expense to the Government than would be entailed by either the indemnification or the insurance bills * * *.

The Committee on the Judiciary of the House of Representatives previously conducted hearings on the subject and favorably reported an amended version of the bill which had been drafted and submitted to the Congress by the General Services Administration. In its favorable report on H.R. 7577 of the 86th Congress, the Committee on the Judiciary of the House of Representatives made the following analysis of the bill as reported by the committee:

The provisions embodied in H.R. 7577 are based on the recommendations of an executive communication from the General Services Administration with some additional language included as the result of committee consideration of the matter. The communication of the General Services Administration sent to the Speaker of the House on January 9, 1959, included a suggested draft of a bill. H.R. 3283 was introduced pursuant to those recommendations, and a full hearing was held on H.R. 3283 and related bills on March 18 and 19, 1959. While H.R. 7577 is based on the recommendations of the same executive communication, it is felt that the changes and additions made in the latter bill clarify the new language which is to become part of section 2679 of title 28.

Section 2679 of title 28 of the United States Code would be amended by the addition of four new subsections. Subsection (b) is the basic provision of the bill, for it makes the remedy provided by section 1346(b) of title 28, relating to tort actions against the United States, the sole remedy for property damage, personal injury, or death resulting from the operation of a motor vehicle by a Government employee

in the scope of his employment. This would exclude suits against employees in their individual capacities on the same claims. Therefore the new language would only apply when the employee is acting in his official capacity at the time of the incident giving rise to the claim, and does not provide the basis for any liability against the United States based on the unauthorized use of Government motor vehicles. The communication of the General Services Administration cites section 5 of the Suits in Admiralty Act (45 U.S.C. 745) as a precedent for this provision. That act provides that the remedy by suit against the United States provided therein with respect to vessels or cargoes owned, operated, or possessed by the United States shall be exclusive of any other action by reason of the same subject matter against the agent or employee of the United States whose act or omission gave rise to the claim. Similarly, the provisions of section 1498 of title 28 grants the owner of a patent the remedy of an action against the United States in place of his claim against a Government contractor for infringement of a patent. In providing a right of action against the United States, this statute has been construed to give the owner of the patent the exact equivalent of the right against the contractor. *Richmond Co. v. United States* (275 U.S. 331 (1928)).

The provisions of H.R. 7577 differ from the original General Services Administration language in that specific reference is made to section 1346(b) concerning tort actions against the Government, and further reference is made to an employee's estate so that the remedy against the United States is made exclusive as to any action against the employee's estate as well as against the employee.

The specific purpose of protecting Government drivers against the hazard of being subjected to suits is implemented by subsections (c) and (d) set forth in the bill. These subsections provide procedures for handling cases which would fall within the categories of actions described in subsection (b) added by the bill. Subsection (c) provides that the interested agencies of the United States shall be given notice so that the employee can be defended by the Attorney General. In this connection it is provided that:

"The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government for any such damage or injury."

H.R. 7577 provides that the employee is to deliver, within the period fixed for such cases by the Attorney General, a copy of all process served upon him to his immediate superior or to the person designated to receive such papers. The person designated to receive those papers is to immediately furnish copies to the U.S. attorney, the Attorney General, and to the head of the employing agency. It is intended that this provision will have the effect of assuring that employees will be assisted in obtaining the aid contemplated in the bill.

Subsection (d) requires that any such action brought in a State court shall be removed to the U.S. district court for the district and division for the place in which the action is pending. In the U.S. district court the proceedings are to be deemed a tort action against the United States under title 28. After removal, if the U.S. district court should determine on a hearing on a motion to remand held before trial on the merits that there is no remedy within the meaning of subsection (b) against the United States, the case shall be remanded to the State court. This provides for a prompt determination of the question of whether a remedy exists within the framework of the Federal tort claims provisions of title 28. The express recognition of a right to have a case remanded for further proceedings in the State court in the event of a determination that there is no remedy within the meaning of subsection (b) assures the continuity of the proceeding so that the applicable statute of limitations will not run and have the effect of barring a remedy against the individual driver where he is found not to have been entitled to the protection contemplated in this bill.

Subsection (e) grants the Attorney General the authority to settle cases in the same manner as he now does under section 2677 of title 28. The committee feels that this is a particularly important provision, for there may be cases in which the Attorney General will find it is to the advantage of the United States to settle the matter at the earlier stages of the proceeding. In those instances where the proceeding is commenced in a State court this settlement can be effected before removal to a U.S. district court. This makes possible the elimination of unnecessary delay and difficulty to everyone concerned, for if the case is a proper one for settlement it is only logical to provide authority for settlement without requiring removal to the Federal court.

Section 2 provides that the amendments provided for in the bill are to take effect 6 months after enactment. It is further expressly provided in that section that any rights or liabilities existing at that time are not to be affected.

The committee believes that the objectives sought by the bill are meritorious. It has been concerned, however, with the effect of the bill upon the rights of an individual plaintiff to maintain an action in a State court if he so desires. The committee has accordingly amended the bill to provide that a civil action or proceeding commenced in a State court against an employee of the Government may not be removed to the district court of the United States without the consent of the plaintiff.

The committee believes that the bill, as amended, may provide a method to achieve the desirable results which are sought by the proponents of the legislation while preserving the right of a plaintiff, if he so desires, to pursue an action against the individual driver in a State court to a final adjudication in that court.

Attached and made a part of this report are (I) a letter dated January 9, 1961, from the General Services Administration; (II) the report of the General Services Administration on the instant bill dated

April 11, 1961; (III) a letter dated October 16, 1957, from the Department of Justice in regard to S. 2684, a similar bill in the 85th Congress; (IV) a letter dated April 2, 1959, from the National Aeronautics and Space Administration in regard to S. 101, a similar bill introduced in the Senate in the 86th Congress; (V) a letter dated March 17, 1959, from the Office of the Postmaster General in regard to S. 101, a similar bill introduced in the Senate in the 86th Congress; (VI) a letter dated April 17, 1959, from the Office of the Postmaster General in regard to S. 1464, a related bill introduced in the Senate in the 86th Congress; and (VII) House Document 415 of the 86th Congress, containing the President's veto message on H.R. 7577.

I

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., January 9, 1961.

HON. SAM RAYBURN,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is enclosed for your consideration a draft of a bill to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This legislative proposal is designed to solve the problem of the personal liability in suits for damages to which employees of the Federal Government are subject as a result of their operation of motor vehicles in the performance of official duties. The objective would be attained by an amendment of the Federal Tort Claims Act (28 U.S.C. 171).

That act, which in effect gives general consent for tort suits against the Government itself brought in Federal courts, does not, in its present form, afford to the Government employee relief or protection against damages assessed against him personally when sued in a State court. While Government employees driving motor vehicles in the course of their official duties may protect themselves from liability by obtaining insurance, they must pay for it out of their own pockets.

The increasing use of motor transport by the Federal Government as a part of its day-to-day operations, coupled with the augmented costs of public liability and property damage insurance coverage available to Federal employees to protect themselves in the operation of vehicles on Government business, has imposed a heavy financial burden on the large number of such employees whose work entails their driving of motor vehicles on behalf of the Government and who, as a matter of prudent self-protection, purchase insurance to protect themselves from personal liability. Few of these employees are in the high- or even medium-pay grades. It is not, therefore, surprising that they complain because of their assuming what they regard as an inequitable burden, and one of which they feel that the Government, as their employer, should relieve them. It is our understanding that drivers of fleet trucks and other vehicles for private concerns are not ordinarily required to provide their own insurance protection.

It is, accordingly, the opinion of the General Services Administration, apparently shared by a number of other Government agencies with the representatives of which we have had informal discussions, that the Federal Government should, by one means or another, assume responsibility for claims and damages against its employees arising from the operation by them of vehicles in the scope of their Government employment.

A number of legislative proposals have been made to afford relief in the aforementioned situation. Some of the bills would provide for indemnification of drivers against liability arising out of their operation of motor vehicles in the performances of their official duties for the Government. In this type of legislation the Federal agency concerned would be required to pay the driver after his liability has been determined in court and he has satisfied the judgment of the court; to pay the person suffering the damage or injury if the judgment of the court is not satisfied; and to settle and pay claims not reduced to judgment. Provision is also made that costs of defending suits shall be borne by the United States, and, in addition, that the concerned Federal agency reimburse the employee driver for counsel retained by him. This type of legislation, however, presents the likelihood of considerable difficulties in administration and of heavy expense to the Government, and is open to the further criticism that, as to actions in State courts, judgments payable by the Government would usually be obtained by trial by jury, a procedure at variance with the requirement expressed in title 28, United States Code, section 2402, that actions against the United States under the Federal Tort Claims Act shall be tried by the court without a jury.

An alternative solution of the problem of the personal liability of the employee-driver has been suggested in the form of legislation to provide for the procurement by the Government, at its expense, of insurance covering its civilian officers and employees against liability for damage to property or for personal injury, including death, resulting from the use of motor vehicles by such officers or employees in the performance of official Government duties. Several bills which have been introduced include this insurance proposal, of which H.R. 2004 of the 85th Congress is an example.

However, after exploration, and discussion with representatives of interested agencies, we believe that the procurement by the Government of liability insurance would entail substantial and needless expense. It is felt that the enclosed legislative proposal, which would attack the problem by way of amendment to the Federal Tort Claims Act, and which has been evolved after considerable discussion with representatives of other interested agencies, will afford the needed relief both with greater simplicity in administration and with far less expense to the Government than would be entailed by either the indemnification or the insurance bills. By this amendment the handling of the suits against the employee driver personally would be fitted into the existing mechanism afforded by the Federal Tort Claims Act, and it is hard to conceive that the yearly amounts which would be paid out by the Government under the measure, including costs of administration, would ever amount to more than an insignificant fraction of the disbursements which would be made annually by the Government for premiums to protect its employee drivers against liability for property damage and personal injury under the insurance proposal.

In the first place, the enactment of the Federal Tort Claims Act amendment would greatly reduce the amounts which the Government now pays out under private bills from time to time enacted for the relief of individual Government drivers who have suffered liability. Another point for consideration is that the Department of Justice, having in mind the amendability of the United States to suits for acts of its employees under the Federal Tort Claims Act, has for some time, for the protection of the Government, been following the general policy of affording counsel and representation to Government employees who are sued in their personal capacity as a result of the performance of their official duties. Thus the provision of the enclosed bill for defense by the Attorney General of actions against driver employees should not impose any great new burden on that Department in terms of either administration or expense. Furthermore, experience shows that comparatively few suits are brought against employee drivers in their personal capacities in State courts. The plaintiff normally sues the United States under the Federal Tort Claims Act and thus enjoys the assurance of solvency in the prospective judgment debtor. However, such suits against the employee driver personally are, from time to time, instituted, and it is to protect himself against the risk of liability being established against him in such a suit that the driver, as a matter of prudence, purchases liability insurance out of his own pocket. Thus it is not anticipated that under the amendment appearances by U.S. attorneys in actions in State courts or their participation in settlements or removals to U.S. district courts will be frequent.

With all relevant factors in mind, we feel it fair to estimate that the additional administrative cost which would result from enactment of the proposed bill should not, when spread throughout the Government, exceed \$100,000 annually. Insofar as GSA is concerned, enactment would not affect its budgetary requirements.

The enactment of this amendment for the protection of the Government driver would afford the relief desired by him, for there would be then no point in his spending his own funds to take out liability insurance to protect him while operating motor vehicles in the scope of his employment for the Government. For the Government, enactment of this proposal would not only have the advantage of leading to an increase in morale among a large segment of its employees, but also would obviate the necessity of introduction in the Congress of private relief bills which necessarily, for their proper consideration, impel considerable expenditure of time and effort within the executive branch and on the part of Senators and Representatives and congressional committee staffs.

The enclosed draft bill consists of merely two sections, the first amending section 2679 of title 28 of the United States Code, which is a part of the Federal Tort Claims Act, and the second fixing the effective date at 6 months after enactment but preserving any rights or liabilities then existing.

Section 2679 would be amended by the addition thereto of four new subsections, designated in the draft bill as (b), (c), (d), and (e).

Subsection (b) makes action against the United States the sole remedy for damage to property or for personal injury, including death, resulting from the operation by any employee of the Govern-

ment of any motor vehicle in the scope of his Federal office or employment, and thus would exclude suits in State courts against such employee personally on the same claim. This provision is to be read in connection with the new subsection (d) authorizing removal of actions from State courts to U.S. district courts hereinafter discussed. It will be noted that the remedy against the United States is allowed only when the action arises from the operation of the vehicle by the employee while acting within the scope of his office or employment. Obviously, the Government would not be subject to any liability for acts of the employee resulting from unauthorized use by him of Government motor vehicles. The making of the remedy against the United States the exclusive remedy finds precedent in section 5 of the Suits in Admiralty Act, as amended (46 U.S.C. 745), which provides that the remedy by suit against the United States provided by the act with respect to vessels or cargoes owned, operated, or possessed by the United States shall be exclusive of any other action by reason of the same subject matter against the agent or employee of the United States whose act or omission gave rise to the claim.

The new subsection (c) would require the Attorney General to defend any civil action or proceeding brought in any court against any employee of the United States for damage to property or for personal injury resulting from the operation by the employee of any motor vehicle while acting within the scope of his office or employment. Provision is made in the subsection for delivery of copies of process served upon such employee to his immediate superior, to the U.S. attorney for the district embracing the place wherein the suit is brought, to the Attorney General and to the head of the employee's agency.

Subsection (d) requires that any such suit against the employee driver commenced in a State court shall be removed at any time before trial by the Attorney General to the district court of the United States for the district embracing the place where the suit is pending, and provides that the suit shall then be deemed a tort action brought against the United States. After removal, if the U.S. district court should determine, on a hearing on a motion to remand held before trial on the merits, that there is no remedy within the meaning of subsection (b) against the United States, the case shall be remanded to the State court. Provision is thus made in subsection (d) for a prompt determination of the question whether a remedy exists within the framework of the Federal Tort Claims Act. The express recognition of the plaintiff's right to have the case remanded for further proceedings in the State court in the event of a judicial determination that there is no remedy under subsection (b) assures the continuity of the proceeding in the State court so that the applicable statute of limitations will not run and have the effect of barring a remedy against the individual driver where he is found not to have been entitled to the protection contemplated in this bill.

Subsection (e) would authorize the Attorney General to compromise or settle any claim asserted in a suit commenced in a State court in the manner provided in title 28, United States Code, section 2677, and with the same effect. Under the latter section the Attorney General, with the approval of the court, may arbitrate, compromise, or settle any claim against the United States under the Federal Tort

Claims Act, after commencement of an action thereon in any Federal court.

As we have indicated heretofore, the proposed bill, being in the form of an amendment to the Federal Tort Claims Act, would make the suits and the other activities cognizable under the bill subject to the existing provisions of the Federal Tort Claims Act. For instance, the procedure provided by title 28, United States Code, section 2672 for administrative adjustments and settlements by the head of a Federal agency of claims for money damages of \$2,500 or less against the United States would continue to be applicable to claims within that limit for damages to property or for personal injury resulting from the operation by any employee of the United States of any motor vehicle while acting within the scope of his office or employment. So, too, any award by the head of a Federal agency pursuant to title 28, United States Code, section 2672, and any award, compromise, or settlement made by the Attorney General pursuant to title 28, United States Code, section 2677 or pursuant to the new subsection (e) of the proposed bill would be paid by the head of the Federal agency concerned out of appropriations available to such agency. The term "employee of the Government" used in the bill would be subject to the definition of that term contained in title 28, United States Code, section 2671, which includes not only officers or employees of any Federal agency but also members of the military or naval forces of the United States. However, under the exceptions to the coverage of the Federal Tort Claims Act set forth in title 28, United States Code, section 2680 there would be excluded from the operation of the proposed amendment any claims arising out of the combatant activities of the military or naval forces, or the Coast Guard, during time of war.

For these reasons, GSA recommends early enactment of the proposed bill.

The Bureau of the Budget by letter dated December 28, 1960, advised that there is no objection to the transmittal of this legislative proposal to the Congress.

Sincerely yours,

FRANKLIN FLOETE, *Administrator.*

A BILL To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

“(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the head of his employing Federal agency.

“(d) Any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

“(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.”

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

II

GENERAL SERVICES ADMINISTRATION,
Washington, D.C., April 11, 1961.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is with further reference to your letter of February 18, 1961, requesting an expression of the views of the General Services Administration on H.R. 2883, a bill to amend title 28, entitled “Judiciary and Judicial Procedure,” of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This bill is an item in the legislative program of the General Services Administration for the 87th Congress, 1st session.

As to the text of H.R. 2883, our only comment is that on page 2, line 7, of the bill the word “employer” should be changed to read “employee”.

The General Services Administration has for several years advocated the remedial legislation embodied in H.R. 2883, namely, amendment of the Federal Tort Claims Act whereby the Federal Government would assume responsibility for the personal liability of its employees

for claims for damage to property or for personal injury resulting from the operation by them of vehicles in the scope of their employment.

This agency's letter to the Speaker of the House of Representatives dated January 9, 1961, enclosing a draft bill identical with H.R. 2883 (except for the above noted word "employer"), gives a full explanation of the background, and the need for enactment of such legislation. Copy of this letter is attached for your ready reference.

The General Services Administration urges early and favorable action on H.R. 2883.

The Bureau of the Budget has advised that, from the standpoint of the administration's program, there is no objection to the submission of this report to your committee.

Sincerely yours,

JOHN L. MOORE, *Administrator.*

III

DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., October 16, 1957.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 2684) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Under existing law, the remedy by suit against the United States for damage or injury caused by the negligent or wrongful act or omission of an employee of the Government, while acting within the scope of his office or employment, is exclusive of the right to sue the employee himself in only those cases where suit may be brought under the Suits in Admiralty and Public Vessels Acts (46 U.S.C. 741-749, 781-789). Those acts, by title 46, United States Code, section 745, prohibit suit against the involved individual employee and make suit against the United States the exclusive remedy. At present, there is no corresponding provision in the Tort Claims Act. Where jurisdiction is conferred by that act, plaintiffs may sue the Government employee instead of or in addition to the United States. This unequal treatment of nonmaritime employees has resulted in vigorous protests and insistence that the United States pay the premium for liability insurance on motor-vehicle drivers unless they are to be given the same protection as maritime employees.

The purpose of the bill is to change the law by extending the rule now applicable in maritime cases to cases within the coverage of the Federal Tort Claims Act so far as they arise out of the operation of motor vehicles by Federal employees in the scope of their employment. This is accomplished by subparagraph (a) of the proposed amendment to title 28, United States Code, section 2679.

The purpose of the remaining subparagraphs of the amendment is to provide a procedure for the handling of such suits against individual employees if brought despite the prohibition of subparagraph (a) against such suits. Thus subparagraph (b) of the proposed amendment limits the exclusiveness to those cases where a "remedy by suit against the United States is provided by this title," referring to the Tort Claims Act. Subparagraph (c) limits the Attorney General's duty to defend to those suits brought against Federal employees "for any such damage or injury," thus confining it to cases involving the employees' operation of vehicles in the scope of his employment in circumstances where suit could be brought against the United States under the Tort Claims Act. Subparagraphs (d) and (e) authorize the Attorney General to remove this limited type of suits from State to Federal courts and to compromise or settle such suits in the same manner as suits against the United States under the Tort Claims Act are compromised.

The provisions of the bill are substantially the same as a proposal sponsored by the General Services Administration. The letter submitting this legislation to the President of the Senate includes a summary and statement of purpose and need for the legislation. The Department of Justice together with the Department of Defense and the General Services Administration contributed staff time to a study which ultimately resulted in the presentation of this proposal. This legislation is believed to be desirable.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely,

WILLIAM P. ROGERS,
Deputy Attorney General.

IV

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION,
Washington, D.C., April 2, 1959.

HON. JAMES O. EASTLAND,
Chairman, Senate Committee on the Judiciary,
Senate Office Building, Washington, D.C.

DEAR MR. EASTLAND: Your letter of March 4, 1959, requested the comments of the National Aeronautics and Space Administration on S. 101, which is a bill to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

The essential feature of the bill is to provide that if a party has a remedy by suit against the United States for damage or injury which arises out of the operation of a motor vehicle by a Government employee while acting within the scope of his employment, then the remedy for such cause of action shall be exclusive against the United States.

Since employees of the National Aeronautics and Space Administration frequently find it necessary to operate motor vehicles in the performance of their official duties, we recommend early enactment of legislation to overcome the risk of personal liability.

Sincerely yours,

JAMES P. GLEASON,
Assistant Administrator for Congressional Relations.

V

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., March 17, 1959.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The Department has noted and studied the bill S. 101 to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

This Department urges favorable action by the Congress on this legislation at the earliest practicable date.

This Department has long realized that some protection against personal, financial responsibility should be accorded to employees who drive motor vehicles. In the enactment of the Federal Tort Claims Act, the Congress established procedures whereby citizens could proceed against the Government to recover damages for personal injury or death or to property resulting from the performance of the governmental function. Unfortunately, persons who have suffered personal or property damage are not required to avail themselves of the procedures provided by the Federal Tort Claims Act. On occasion, citizens, who claimed to have suffered damage or injury as a result of the operation of a motor vehicle used in the postal service, have instituted legal action against the employee individually in the State courts. Some cases have proceeded to judgment and the Department believes that in some instances the employees concerned have personally assumed the financial responsibility.

When the Department is advised of the institution of a suit against its employee drivers, it asks the Department of Justice to enter an appearance in the case. This is particularly true in those instances wherein the Department would have assumed financial responsibility of the injured person had availed himself of the provisions of the Tort Claims Act. However, if judgment should be rendered in the State court against the employee, there is no provision of law which permits the Department to assume the financial burden of that judgment.

The only alternative for the employee against whom a judgment has been rendered is to seek relief through the Congress in the form of a private relief bill. This is not a satisfactory procedure.

Many bills have been introduced in the Congress to provide for the procurement by the Government of liability insurance on behalf of its employees. In the opinion of this Department the cost of providing such insurance would be so great as to cause it to oppose enactment of such bills. The bills now before your committee will, we believe, solve the problem and will effectively relieve employees from financial responsibility in cases of this kind. The bills authorize the Attorney General to defend any civil action brought against any employee of the Government for damages arising out of the operation of motor vehicles in the course of employment. Provision is made for the removal of any civil action brought against an employee from State to Federal courts. The bills provide in effect that the Federal Tort Claims Act will be the exclusive remedy.

Enactment of this legislation will not materially increase the operation costs of the postal service.

The Bureau of the Budget has advised that there is no objection to the submission of this report to your committee.

Sincerely yours,

ARTHUR E. SUMMERFIELD,
Postmaster General.

VI

OFFICE OF THE POSTMASTER GENERAL,
Washington, D.C., April 17, 1959.

HON. JAMES O. EASTLAND,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on S. 1464, a bill to indemnify drivers of motor vehicles of the postal service against liability for damages arising out of the operation of such vehicles in the performance of official duties.

In brief, this measure would relieve postal operators of motor vehicles of liability for damage to the motor vehicle or for personal injury or property damage resulting from the operation of the vehicle. This would be accomplished by requiring the Postmaster General to pay such damages, where there is a legal liability on the part of the postal operator; settle and pay any claim not reduced to judgment; pay costs incurred by the postal operator in defending any civil action brought against him, where the Attorney General is unable to defend in such action. In short, the measure would have the effect of nullifying the Federal Tort Claims Procedure (28 U.S.C. 2671 et seq.).

For the reasons set forth in this Department's report on S. 101 to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes this Department recommends the enactment of that measure in lieu of S. 1464.

In advising this Department with respect to its report on an identical bill, H.R. 62, the Bureau of the Budget advised that there would be no objection to the submission of that report to Congress.

Sincerely yours,

E. O. SESSIONS,
Acting Postmaster General.

VII

[House of Representatives, 86th Cong., 2d sess., Doc. No. 415]

MESSAGE FROM THE PRESIDENT OF THE UNITED STATES RETURNING WITHOUT APPROVAL, THE BILL (H.R. 7577) TO AMEND TITLE 28, ENTITLED "JUDICIARY AND JUDICIAL PROCEDURE," OF THE UNITED STATES CODE, TO PROVIDE FOR THE DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES ARISING OUT OF THEIR OPERATION OF MOTOR VEHICLES IN THE SCOPE OF THEIR EMPLOYMENT, AND FOR OTHER PURPOSES

To the House of Representatives:

I return herewith, without my approval, H.R. 7577, to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

As originally introduced, this legislation provided that when a Government driver is sued in a State court on a claim resulting from his operation of a motor vehicle while acting within the scope of his employment, such action should be removed to the appropriate U.S. district court. There it would become an action against the United States under the Federal Tort Claims Act and be the plaintiff's exclusive judicial remedy. Government drivers would thus cease to be defendants and would be relieved of personal liability in such cases. These are desirable objectives.

The bill was amended, however, to require the consent of the plaintiff before any such action could be removed to a Federal court. This amendment is unfortunate, for any plaintiff, by refusing to give his consent, could prevent the conversion of the action to one under the Federal Tort Claims Act and thus thwart the sound purposes of the original bill. The amendment also makes the bill inconsistent internally and could give rise to needless litigation.

Although unwilling, therefore, to approve this bill, I would gladly sign new legislation corresponding to H.R. 7577 as first passed by the House of Representatives.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, *June 11, 1960.*

H.R. 7577

EIGHTY-SIXTH CONGRESS OF THE UNITED STATES OF AMERICA, AT THE SECOND SESSION, BEGUN AND HELD AT THE CITY OF WASHINGTON ON WEDNESDAY, THE SIXTH DAY OF JANUARY, ONE THOUSAND NINE HUNDRED AND SIXTY

AN ACT To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection sym-

bol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.

"(d) With the consent of the plaintiff in any such civil action or proceeding commenced in a State court, such action or proceeding may be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

SAM RAYBURN,
Speaker of the House of Representatives.

CARL HAYDEN,
President of the Senate pro tempore.

[Endorsement on back of bill:]

I certify that this Act originated in the House of Representatives.

RALPH R. ROBERTS, *Clerk.*
By H. NEWLIN MEGILL.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic*, existing law in which no change is proposed is shown in *roman*):

SECTION 2679 OF TITLE 28, UNITED STATES CODE

§ 2679. Exclusiveness of remedy.

(a) The authority of any Federal agency to sue and be sued in its own name shall not be construed to authorize suits against such Federal agency on claims which are cognizable under section 1346(b) of this title, and the remedies provided by this title in such cases shall be exclusive. (June 25, 1948, ch. 646, § 1, 62 Stat. 984.)

(b) *The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.*

(c) *The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate or any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought to the Attorney General, and to the head of his employing Federal agency.*

(d) *With the consent of the plaintiff in any such civil action or proceeding commenced in a State court, such action or proceeding may be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.*

(e) *The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect.*

Calendar No. 712

87TH CONGRESS
1ST SESSION

H. R. 2883

[Report No. 736]

IN THE SENATE OF THE UNITED STATES

MAY 3, 1961

Read twice and referred to the Committee on the Judiciary

AUGUST 14, 1961

Reported by Mr. JOHNSTON, with amendments

[Omit the part struck through and insert the part printed in italic]

AN ACT

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 2679 of title 28, United States Code, is amended
4 (1) by inserting the subsection symbol "(a)" at the begin-
5 ning thereof and (2) by adding immediately following such
6 subsection (a) as hereby so designated, four new subsections
7 as follows:

8 "(b) The remedy by suit against the United States as

1 provided by section 1346 (b) of this title for damage to
2 property or for personal injury, including death, resulting
3 from the operation by any employee of the Government of
4 any motor vehicle while acting within the scope of his office
5 or employment, shall hereafter be exclusive of any other
6 civil action or proceeding by reason of the same subject mat-
7 ter against the employee or his estate whose act or omission
8 gave rise to the claim.

9 “(c) The Attorney General shall defend any civil action
10 or proceeding brought in any court against any employee
11 of the Government or his estate for any such damage or
12 injury. The employee against whom such civil action or
13 proceeding is brought shall deliver within such time after
14 date of service or knowledge of service as determined by
15 the Attorney General, all process served upon him or an
16 attested true copy thereof to his immediate superior or
17 to whomever was designated by the head of his department
18 to receive such papers and such person shall promptly fur-
19 nish copies of the pleadings and process therein to the
20 United States attorney for the district embracing the place
21 wherein the proceeding is brought, to the Attorney General,
22 and to the head of his employing Federal agency.

23 “(d) ~~Any~~ *With the consent of the plaintiff in any such*
24 *civil action or proceeding commenced in a State court shall*
25 *such action or proceeding may be removed without bond at any*

1 time before trial by the Attorney General to the district court
2 of the United States for the district and division embracing
3 the place wherein it is pending and the proceedings deemed
4 a tort action brought against the United States under the
5 provisions of this title and all references thereto. Should a
6 United States district court determine on a hearing on a
7 motion to remand held before a trial on the merits that the
8 case so removed is one in which a remedy by suit within
9 the meaning of subsection (b) of this section is not available
10 against the United States, the case shall be remanded to the
11 State court.

12 “(e) The Attorney General may compromise or settle
13 any claim asserted in such civil action or proceeding in the
14 manner provided in section 2677, and with the same effect.”

15 SEC. 2. The amendments made by this Act shall be
16 deemed to be in effect six months after the enactment hereof
17 but any rights or liabilities then existing shall not be affected.

Passed the House of Representatives May 1, 1961.

Attest:

RALPH R. ROBERTS,

Clerk.

87TH CONGRESS
1ST SESSION

H. R. 2883

[Report No. 736]

AN ACT

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

May 3, 1961

Read twice and referred to the Committee on the
Judiciary

August 14, 1961

Reported with amendments

8/28/61

- PERSONNEL. Sen. Keating submitted an amendment intended to be proposed to H. R. 2883, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, which he stated would provide that "a State court suit could be removed to the Federal court only if the Attorney General certified that the Government employee was acting within the scope of his employment at the time of the incident out of which the suit arose." p. 16124
- FOREIGN AID. Sen. Kuchel expressed opposition to granting the President borrowing authority over a 5-year period to finance the foreign aid program and inserted an editorial to support his position. pp. 16045-6
- POULTRY PRICES. Sen. Talmadge called attention "to the dire economic circumstances in which the American poultry industry finds itself as the result of overproduction," stated that overproduction was caused by "vertical integration" of the poultry industry, and inserted an article, "Poultry Prices Continue to Fall, Some Looking For U. S. Controls." pp. 16048-9
- ELECTRIFICATION. Sen. Moss inserted his letter discussing the proposed construction of a transmission system for the Colorado River storage project and an article, "Public, Private Power Grid for a New Struggle." pp. 16049-50
- Sen. Goldwater stated that he was disturbed "at the apparent indifference with which some of my colleagues seem to view the question of Government electric power," stated that in British Columbia "the Government has just taken over the British Columbia Electric Co., Ltd.," and inserted two articles on this subject. pp. 16051-2

ITEMS IN APPENDIX

- TRANSPORTATION. Speech in the House by Rep. Van Zandt discussing the need for transportation in a national emergency, saying, "Failure by this Congress to come to grips with the transportation problem would constitute gross dereliction of duty and abdication of responsibility." pp. A6708-10
- PEACE CORPS. Extension of remarks of Sen. Cooper inserting an article, "The Peace Corps Splices Idealism to Practicality," favoring the Peace Corps. pp. A6716-7
- WILDERNESS. Extension of remarks of Sen. Dworshak inserting an article, "The Controversial Wilderness Bill." p. A6724
- ELECTRIFICATION. Extension of remarks of Rep. Thornberry inserting an address before the area development panel of the Texas Electric Cooperatives. p. A6733
- Extension of remarks of Sen. Randolph commending our "energetic REA cooperatives" and inserting two articles. pp. A6760-2
- WHEAT. Extension of remarks of Rep. Quie inserting an article, "Farm Referendums Weighted?" p. A6739
- SALINE WATER. Extension of remarks of Rep. Boggs inserting an article, "Desalinization Stride." p. A6740

BILLS INTRODUCED

- ECONOMICS; EXHIBITS. S. Con. Res. 41, by Sen. Douglas (for himself and Sen. Dirksen), endorsement of World Economic Progress Exposition.

22. NATIONAL PARKS. S. 2474, by Sen. Cooper, to provide for an appropriation of a sum not exceeding \$175,000 with which to make a survey of proposed national parkway extensions or connections to Blue Ridge Parkway, Great Smoky Mountains National Park, Foothills Parkway, Mammoth Cave National Park, and Natchez Trace Parkway; to the Interior and Insular Affairs Committee.
23. FOREIGN AFFAIRS. H. R. 8912, by Rep. Bennet of Florida, to establish a Foreign Specialist Corps to provide skilled personnel for oversea programs of the U. S. Government; to the Foreign Affairs Committee
24. FARM PROGRAM. H. R. 8914, by Rep. Breeding, to amend subsection (d) of section 16 of the Soil Conservation and Domestic Allotment Act, as amended; to the Agriculture Committee.
25. SUGAR. H. R. 8919, by Rep. Saund, to amend the Sugar Act of 1948, as amended; to the Agriculture Committee
26. SMALL BUSINESS. H. R. 8922, by Rep. Spence, to amend the Small Business Act to increase by \$20 million the amount available for regular business loans thereunder; to the Banking and Currency Committee.
27. SURPLUS PROPERTY. H. R. 8939, by Rep. Johnson of Wis., to amend section 203(j) of the Federal Property and Administrative Services Act of 1949 so as to provide that certain surplus property of the United States shall be offered for sale to the States; to the Government Operations Committee.

PRINTED HEARINGS RECEIVED BY THIS OFFICE

28. LABELING. Packaging and labeling practices, Part 1. S. Judiciary Committee.
29. MINING. H. R. 84, etc., to stabilize the mining of lead and zinc by small domestic producers. H. Interior and Insular Affairs Committee.
30. SMALL BUSINESS. S. 902, to amend the Small Business Investment Act of 1958. S. Banking and Currency Committee.
31. LANDS. S. 354, 356, 357 and H. R. 2280, 2281, Alaska military land withdrawals. S. Interior and Insular Affairs Committee.
32. MARKETING. S. 1037, practices in the marketing of perishable agricultural commodities. S. Agriculture and Forestry Committee.
33. RECLAMATION; ELECTRIFICATION. Statement of positions on the Upper Colorado River storage project. S. Interior and Insular Affairs Committee.
34. FOREIGN TRADE. S. 1729, to promote the foreign commerce of the U. S. Senate Commerce Committee.
H. R. 6168, tariff treatment of shrimp imports. H. Ways and Means Committee

BILLS APPROVED BY THE PRESIDENT

35. CENTENNIALS. H. J. Res. 435, providing for recognition of the centennial of the establishment of the Department of Agriculture. Approved August 25, 1961 (Public Law 87-161).
H. J. Res. 436, providing for recognition of the centennial of the establishment of the national system of land-grant universities and colleges.

Calendar No. 712

87TH CONGRESS
1ST SESSION

H. R. 2883

IN THE SENATE OF THE UNITED STATES

AUGUST 28, 1961

Ordered to lie on the table and to be printed

AMENDMENT

Intended to be proposed by Mr. KEATING to the bill (H.R. 2883) to amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes, viz: On page 2, beginning on line 23, amend subsection (d) to read as follows:

- 1 Upon a certification by the Attorney General that the
- 2 defendant employee was acting within the scope of his em-
- 3 ployment at the time of the incident out of which the suit
- 4 arose, any such civil action or proceeding commenced in a
- 5 State court shall be removed without bond at any time be-
- 6 fore trial by the Attorney General to the district court of
- 7 the United States for the district and division embracing the
- 8 place wherein it is pending and the proceedings deemed a

1 tort action brought against the United States under the
2 provisions of this title and all references thereto. Should a
3 United States district court determine on a hearing on a mo-
4 tion to remand held before a trial on the merits that the case
5 so removed is one in which a remedy by suit within the
6 meaning of subsection (b) of this section is not available
7 against the United States, the case shall be remanded to the
8 State court.

87TH CONGRESS
1ST SESSION

H. R. 2883

AMENDMENT

Intended to be proposed by Mr. KEATING to the bill (H.R. 2883) to amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

AUGUST 28, 1961

Ordered to lie on the table and to be printed

Obviously these matters would not and should not normally occupy the attention of the White House. But once the President has taken personal command of handling the Berlin crisis, which is certainly not over, he might well wish to get the facts at his own direction. If a decision is taken at the Presidential level, something would happen.

From the information one can gather at this end, something needs to happen.

When you figure that the Red army in East Germany could throw vastly superior manpower and firepower against the Allied forces of 12,500 men in this surrounded city, you will realize that West Berlin is a veritable death trap.

Only token Allied forces are here. They could be run over and completely destroyed in a day, a week, or a fortnight, depending on what the Soviets chose to do.

This fact is calmly accepted by the U.S. troops. They know they are expendable. But they know, too, that they are here for a vital military mission—to make it clear to the Soviet Union that an attack on West Berlin is an attack on the United States and to do one or two other things, to force the enemy to pause before all-out war became inevitable or to enable the United States to have time to take the next step.

This fact is also calmly recognized by the wives and families of the officers and men stationed here. They are army wives and they know that theirs is a risk which cannot be avoided.

Morale could not be higher than it is today at this U.S. garrison. The men who reinforced the garrison last week were eager to come.

These men deserve to have in their hands more of the best—not just the next best—arms and armor in tanks, artillery, ammunition, and armored personnel carriers which the Nation is producing.

[From the Washington Post, Aug. 28, 1961]

EXPORT LICENSES

(By George E. Sokolsky)

Business is business but the security of our Nation is more important. At the present time, the United States has an embargo on exports to Soviet Russia, Red China, Cuba and other Communist countries. This embargo is in the national interest. Congress has passed the Export Control Act with a view to protecting the national interest.

The Secretary of Commerce is charged with the execution of this act and under it he issues licenses confidentially unless it is, in his judgment, in the national interest to make such information public.

There are some who believe that all data concerning these licenses, including the name of the person or firm that applies for and receives the license should be made public. The Secretary of Commerce, Luther H. Hodges, disagrees with this point of view. He holds:

"By identifying individual business firms, along with other pertinent data, vital information reflecting the trade and commercial position of each company would be revealed. This in turn could and likely would in many instances lead to disruption of the normal competitive relationships between the many business firms in the export business, and could very well result in reducing the Nation's export business at a time when it should be expanded. In addition, I feel that publication of trade information as to individual firms would particularly be of potential damage to the smaller companies in the export business which are in the process of developing their oversea markets and gaining a toehold in a highly competitive business activity."

It seems to me that this is a specious argument. The American people are entitled to know what American firms are trading

with the enemy and why. There may be a sound reason for such trade but we should know about it.

The publication of such information would not only startle people generally but would shock the stockholders of such companies who would suddenly discover that the enterprise which they own is engaged in trading with the enemy.

Secretary Hodges also says:

"A point of more substances and I think of greater significance is that—from the national interest—the vital information is not what particular company has been licensed to export, but what decision has been made by the Government to authorize what commodity to be exported to what country. In terms of the public interest and what should be of public concern it is far more important to know what commodity or item the Government has approved for export to what particular country than it is to know the name of the individual business firm that has applied for and received an export license."

The issue here, it seems to me, is not what is more or less important. It is rather that everything is important. The American people are entitled to know everything that goes on in this country and whatever affects them. The Berlin situation is a demonstration of the stupidity of secrecy and of the objection to criticism and debate.

It is true that Secretary Hodges can point to his predecessor, who set up the precedents which he is following. However, it is to be noted that we are today paying a very heavy bill contracted by these same predecessors who failed to protect American interests. They were among those who made it possible for Soviet Russia to build a new industry on the gifts from the United States, amounting to \$11 billion during the war period, and how much more has yet to be calculated.

The time has come to let the cat out of the bag. Let us know everything about what has been done to the economy of the United States during the past three blighted decades. The more the people know the readier they will be to stand up in support of their Government at this critical moment.

BLOCKADE OF CUBA

Mr. MILLER. Mr. President, over a year ago I called for establishment of a blockade of Cuba by the United States, in concert with the Organization of American States, under which all shipments of war materiel either into or out of Cuba would be stopped. If this had been done, I doubt that Mr. Castro would be in power today. So it is with considerable interest that one finds in the August 21 issue of the Omaha (Nebr.) World Herald a lead editorial on the "Policy of Contraband," which points out that the members of the National Strategy Committee of the American Security Council have come up with substantially the same recommendation. I ask unanimous consent that this editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

POLICY OF CONTRABAND

"Our national power," said a group of prominent Americans, "should be applied peacefully and effectively by utilizing the centuries-old principle of declaration of contraband. It is recommended that the President apply this principle by declaring the entire Western Hemisphere to be a peace zone, with all Communist war materiel, including fuel, declared to be contraband."

Contraband goods are subject to seizure. If the principle outlined above were applied and diligently enforced, Soviet Russia could not arm and supply Castro's Cuba.

Who are the prominent Americans who suggest this course? They are members of the National Strategy Committee of the American Security Council. They include Adm. Arthur W. Radford and Gen. Albert C. Wedemeyer. Another member in 1960, and an adviser until last July 1 when he became President Kennedy's military representative, was Gen. Maxwell D. Taylor.

The Council includes executives of such companies as General Electric, United States Steel, Sheaffer Pen, Quaker Oats, and Weyerhaeuser Timber. These and other responsible Americans believe that action other than handouts of foreign aid is needed to save Latin America from communism.

In support of tough hemispheric action, the strategy committee report makes a bow in the direction of the late Franklin Roosevelt, approving his swap of U.S. destroyers for British Caribbean bases and quoting his opinion that the swap was "an epochal and far-reaching act of preparation for continental defense in the face of grave danger. Preparation for defense is an inalienable prerogative of a sovereign state."

These military-citizen strategists regard their contraband plan as in a category similar to the destroyer deal.

If the strategy committee plan were applied, legitimate peaceful trade would continue, but Soviet bloc ships headed for Cuba would be stopped. If they contained contraband, they would be told to go home. If they headed for Cuba, they would be boarded, and the contraband would be dumped or brought to the United States. If the Soviets used armed escorts, "they would be risking war for the warlike purpose of forcing Iron Curtain arms and munitions into the peaceful Western Hemisphere."

A declaration of contraband would not involve blockade, or armed intervention, or invasion, says the committee, but it would be a reasonable answer to "the state of belligerency" created by Premier Khrushchev's announced aim of destroying non-Communist governments.

If the United States wants to apply a tough policy short of war which would demonstrate American determination to keep communism out of this hemisphere, the principle of contraband may fill the bill. It deserves public discussion and attention at the highest levels of government.

WAGE RATES AT MISSILE SITES

Mr. MILLER. Mr. President, in the Wall Street Journal of August 24 appears an article on the subject of unreasonable wages at some of our missile sites undergoing construction in Kansas. The article points out the abuses which were uncovered by the Commission headed by Labor Secretary Arthur Goldberg. I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

MISSILE UNIT CALLS WAGES "UNREASONABLE" AT KANSAS SITES; RULING IS FIRST OF ITS KIND

WASHINGTON.—The Missile Sites Labor Commission issued its first decision branding wage rates "unreasonable" at a missile site construction project.

The "unreasonable" finding involved construction of Atlas missile-launching sites around Forbes Air Force Base at Topeka, Kans. The Commission conducted hearings

at the base July 24 to examine wage agreements between Local 142 of the International Hod Carriers Union and the Topeka division of Associated General Contractors of America, a builders' organization.

Defense Secretary McNamara has been advised of the finding, the Commission said. Many Government contractors are paid on the basis of cost plus profit; the Department is empowered to disallow costs deemed unreasonable.

Complaints have been made that some contractors were agreeing with construction unions to pay exorbitant wages because, through cost-plus contracts, the wages would be paid by the Government instead of the contractor. To prevent this practice and to promote labor peace at missile and space sites, President Kennedy on May 26 created the 11-man Commission headed by Labor Secretary Goldberg.

A month ago the Commission announced a set of guidelines for wage agreements between contractors and unions at missile and space construction sites. In general, the guidelines provide that wage rates on these sites should not exceed rates for the same type of work on other projects in the area.

In its Forbes Air Force Base finding the Commission said normal wage rates for construction in counties surrounding Topeka were as much as 13 percent below rates in Topeka, but the union and the companies agreed that on Federal construction in these counties, the Topeka rate would be paid rather than the normal rate.

This agreement, the Commission found, is "discriminatory on its face" and "unreasonable." The Defense Department was advised that if any costs are disallowed, however, the action should apply to future payments rather than costs incurred before the ruling.

The Commission also examined contracts for construction at Vandenberg Air Force Base in California and found the wage rates "reasonable."

Through Labor Secretary Goldberg the Commission also announced guidelines for labor-management contracts covering industrial workers at missile-space sites. Missile-makers often bring plant workers to launching sites to help install the completed missile. As in the Commission's statement on construction wages, the new policy asks that wage rates and fringe benefits for industrial workers on Government projects be consistent with wages for similar workers doing non-Government work.

PROPOSED AMENDMENT TO H.R. 2883—JUDICIARY AND JUDICIAL PROCEDURE

Mr. KEATING. Mr. President, I send to the desk an amendment which I intend to propose to H.R. 2883, and ask that it be printed and ordered to lie on the table.

The PRESIDING OFFICER. The amendment will be received and printed, and will lie on the table, as requested.

Mr. KEATING. Mr. President, I ask unanimous consent that the amendment may be printed in the RECORD in full at the conclusion of my remarks.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? The Chair hears none, and it is so ordered.

(See exhibit 1.)

Mr. KEATING. Mr. President, H.R. 2883, which was recently reported by the Senate Committee on the Judiciary, provides for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope

of their employment. In general, it would make a civil action against the United States the exclusive remedy in such cases and authorize removal to the Federal district court of any action commenced in a State court against the individual government employee. In committee the bill was amended to provide that a proceeding commenced in a State court against a Government employee could not be removed to a district court of the United States without the consent of the plaintiff.

In my opinion the committee's amendment is unwise for several reasons:

First. The purpose of the bill is to make the United States wholly liable for any damages caused by its employees in the course of their duties and to protect the employee from any dual liability. This purpose would be frustrated if plaintiffs can continue to proceed against individual employees in State court proceedings.

Second. Under the committee amendment, employees would have to incur the expense of insurance to protect themselves against personal liability, which defeats another one of the stated reasons for the bill.

Third. Section 5 of the Suits in Admiralty Act—title 46, United States Code, section 745—is a direct precedent for the proposed bill. Under the provisions of this act, the plaintiff has no option—the remedy against the United States is exclusive and suits must be brought in the district courts. The committee amendment to H.R. 2883 would be inconsistent with this precedent and would establish different procedures for maritime and nonmaritime employees of the United States.

Fourth. Under the Federal Tort Claims Act, the Federal courts have original jurisdiction over all other claims against the United States. The committee amendment is also inconsistent with this scheme.

Perhaps the next point is the strongest practical argument to be made against the action taken by the committee and in favor of the amendment which I propose.

Fifth. The President last year vetoed H.R. 7577—an identical bill—because of the same amendment which the committee has recommended. Approval of the amendment may invite the same action this year. The matter has been long delayed and it is unreasonable to jeopardize the proposed legislation again this year.

My proposed amendment would avoid these objections and at the same time give full protection to the plaintiff's interests. Under my amendment, a State court suit could be removed to the Federal court only if the Attorney General certified that the Government employee was acting within the scope of his employment at the time of the incident out of which the suit arose. The bill already provides that should a district court determine that a case which has been removed is one in which a remedy is not available against the United States, the case shall be remanded to the State court. With these safeguards in the bill, it should be entirely satisfactory to the

Government, its employees and potential plaintiffs.

EXHIBIT 1

On page 2, line 23, amend subsection (d) to read as follows:

"Upon a certification by the Attorney General that the defendant employee was acting within the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court."

LEGAL COUNSEL FOR INDIGENT DEPENDENTS

Mr. ERVIN. Mr. President, earlier in this session I joined with several of my distinguished colleagues in the Senate in introducing legislation which would provide for legal counsel for indigent defendants. Recently, the Subcommittee on Constitutional Rights, of which I am chairman, released a committee print dealing with this subject.

It has been a source of disappointment to me that legislation providing counsel for indigent defendants has not been enacted. Yesterday the Washington Post carried an article in which was quoted excerpts from a letter written by President Kennedy to Dean Paul R. Dean, of Georgetown University, in which he commended the legal intern program of the university's law center. The author of this article, Mr. Leslie H. Whitten, focused attention on the appalling situation which exists in Federal courts in the District of Columbia alone regarding counsel for indigent defendants.

I join the President in saluting Georgetown University's legal intern program. I feel that this program has helped to point up the need for the type of legislation which S. 655, S. 854, and S. 1484 would provide; I hope that such legislation will soon be enacted by the Congress.

I ask unanimous consent that the article referred to be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

KENNEDY PRAISES LEGAL INTERN PLAN AT GEORGETOWN UNIVERSITY

(By Leslie H. Whitten)

President Kennedy has praised Georgetown University's legal intern program for its "admirable dedication and competence" in defending the city's poor in criminal cases.

Ironically, the praise comes when defense of paupers, so vigorous in the spring, has fallen into summer doldrums.

The President's commendation came in a letter to Dean Paul R. Dean of the university's law center. American Bar Association President Whitney N. Seymour also lauded the interns.

Digest of CONGRESSIONAL PROCEEDINGS

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

OFFICE OF
BUDGET AND FINANCE
(For information only;
should not be quoted
or cited),

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For actions of September 7, 1961
87th-1st, No. 156

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HIGHLIGHTS: House committee reported bills to permit wheat producers to withdraw from stored excess and to permit farms on which summer fallow is practiced to participate in feed grains program. House committee voted to report bill to increase number of supergrade positions. Sens. Humphrey and Proxmire criticized Gov. Rockefeller's farm policy statements. House received conference report on Labor-HEW appropriation bill.

SENATE

1. **PEANUTS.** Passed without amendment H. R. 1021, to extend for 2 years the definition of peanuts which is now in effect under the Agricultural Adjustment Act of 1938 so as to exclude from acreage allotments and marketing quotas any peanuts produced and marketed for consumption as boiled peanuts. This bill will now be sent to the President. p. 17334
2. **PERSONNEL.** Passed with amendments H. R. 2883, to provide for the defense of suits by the Government against Federal employees arising out of their operation of motor vehicles in the scope of their employment (pp. 17339, 17349-51). Agreed to an amendment by Sen. Keating which he stated "would not require the plaintiff's consent to removal of suits against individual employees, but it would require the Attorney General -- as a condition of removal -- to certify that the employee was acting within the scope of his employment at the time of the incident out of which the suit arose" (pp. 17349-51).
Passed without amendment H. R. 7043, to extend to employees subject to the Classification Act of 1949 the benefits of salary increases in connection with

the protection of basic compensation rates from the effects of downgrading actions. This bill will now be sent to the President. p. 17305

Passed as reported S. 502, to authorize the employment of retired Federal employees by the D. C. Board of Education and authorize the employment of retired employees by the D. C. Board of Education by the Federal Government. p. 17305

Received from the Joint Committee on Reduction of Nonessential Federal Expenditures a report on Federal employment and pay for July 1961. pp. 17289-92

Sen. Bennett inserted a newspaper editorial "expressing dismay with the continual expansion of Federal activities in the American life, and a continued growth of the Federal payroll." p. 17385

3. CIVIL DEFENSE. Passed without amendment H. R. 8406, to change the name of the Office of Civil and Defense Mobilization to the Office of Emergency Planning. This bill will now be sent to the President. p. 17303
4. FOREIGN AID. Passed as reported S. 2423, to provide for the appointment of a U. S. representative to the Organization for Economic Cooperation and Development. p. 17309
5. FARM PROGRAM. Sen. Proxmire deplored N. Y. Gov. Rockefeller's criticism of Secretary Freeman for supporting legislation to provide for national milk sanitation standards and stated that "Consumers will be bitterly disappointed that a figure of Governor Rockefeller's reputation should attack the interest of the Nation's consumers on behalf of the short-run economic interest of part of the New York State dairy industry." p. 17296
Sen. Humphrey criticized Gov. Rockefeller's statement and defended proposed legislation to provide for the establishment of national milk sanitation standards. pp. 17340-6
6. CULTURAL EXCHANGES. Passed with an amendment H. R. 8666, to provide for the improvement and strengthening of the international relations of the U. S. by promoting better mutual understanding among the peoples of the world through educational and cultural exchanges, after substituting the text of a similar bill, S. 1154. Conferees were appointed. p. 17365
7. SMALL BUSINESS. Passed with amendment H. R. 8762, the proposed Small Business Act Amendments of 1961, after substituting the text of similar bill, S. 836 as amended. Consideration of S. 836 was postponed indefinitely. Conferees were appointed. pp. 17317-34
8. RECLAMATION. The Interior and Insular Affairs Committee reported with amendment S. 970, to authorize the Secretary of the Interior to construct and maintain the Mid-State reclamation project, Nebr. (S. Rept. 884). p. 17288
9. MINERALS At the request of Sen. Byrd, S. 1747, to stabilize the mining of lead and zinc through Federal payments to domestic miners of lead and zinc ore and concentrates, was taken from the calendar and referred to the Finance Committee for consideration. p. 17295
10. FORESTRY. Sen. Neuberger urged enactment of legislation to provide for the establishment of a national wilderness areas preservation system. pp. 17316-7
Sen. Neuberger urged enactment of legislation to provide for the establishment of an Oregon Dunes National Seashore, which would involve national forest lands, and inserted a report by the Committee for the Oregon Dunes favoring such legislation, "The Oregon Dunes and the Wise Decision." pp. 17314-6

To every citizen of New Jersey he will be remembered as a Governor who made over the State's corporation, election, public utility and labor laws.

To all who realize that progressive legislation was needed early in this century to dislodge those who "sat upon a hill of privilege," Wilson will be remembered as an architect of social change.

To everyone who believes that the Presidency is a podium for leadership rather than mere administration, Woodrow Wilson will be remembered as a man who gave this Office new dimensions.

And, to everyone who believes that a crime against one nation is a crime against all nations, Wilson will forever be remembered as the man who, in the words of Bernard Baruch, "dared to do what few statesmen have had the courage to do—to introduce ethics into international affairs and to insist that the conduct of nations as well as men be governed by law."

We are still working toward this goal in 1961—more than four decades after Wilson helped us to see it clearly. In 1961 we draw inspiration from Wilson's words, and I think we would draw inspiration from a memorial to him in the Capital of the United States.

THE STAGE IS SET

No one in this Chamber needs any more discussion, I am sure, on the life and accomplishments of Woodrow Wilson. I shall close, therefore, by noting the following:

First. The Woodrow Wilson Centennial Commission, after it completed its notable nationwide program in 1956-57, said that its work would remain incomplete until a memorial to Wilson is constructed in the Nation's Capital. Commission members felt that a memorial of size and grandeur similar to those honoring Washington, Jefferson, and Lincoln would be the only suitable one for Wilson.

Second. Many other suggestions have been made since then for "living memorials"—functional buildings that could carry out a specific Wilsonian theme while serving a specific purpose. As I have said on other occasions, the arguments for a living memorial and for a monumental memorial are strong. I am glad that the Commission will have the job of making the decision on this issue.

I would like to point out, however, that either form of memorial would capture the imaginations of many millions of people throughout the world. Imagine, for instance, the number of visitors from abroad who would visit a Wilson memorial to pay their respects to the memory of a man who may have had an important role in the winning of independence for their homelands. Imagine, too, how those who fled from "captive nations" would wish to visit the same memorial or to pay direct tribute to a man who said earlier in this century that their nations should be free and independent.

What better way could be found to remind our countrymen and our friends in other nations that the United States has sought peace with justice under the

leadership of men like Washington, Jefferson, Lincoln, Wilson, and Roosevelt?

Third. My final comment is that the Woodrow Wilson Foundation and many distinguished Americans have expressed great interest in the memorial proposal. The Commission would be assured, I believe, of much help and extensive discussion as soon as it could begin its work.

Mr. President, we in Congress often borrow from Wilson when we wish to make a pertinent comment. I should like to end these arguments for a Wilson Memorial Commission with the words Wilson spoke during his 1912 campaign. He described America as a land with a vision of the future then added:

She saw them free because they were equal. She saw them banded together because they had the spirit of brothers. She saw them safe because they did not wish to impose upon one another.

And the vision is not changed. The multitude has grown, that welcome multitude that comes from all parts of the world to seek a safe place of life and of hope in America. And so America will move forward, if she moves forward at all, only with her face to that same sun of promise. Just so soon as she forgets the sun in the heavens, just so soon as she looks so intently upon the road before her and around her that she does not know where it leads, then will she forget what America was created for; her light will go out; the nations will group again in darkness, and they will say: "Where are those who prophesied a day of freedom for us? Where are the lights that we followed? Where is the torch that the runners bore?"

DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES

Mr. MANSFIELD. Mr. President, I move that the Senate proceed to the consideration of Calendar 712, House bill 2883.

The motion was agreed to; and the Senate proceeded to consider the bill (H.R. 2883) to amend title 28 entitled "Judiciary and Judicial Procedure" of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment and for other purposes, which had been reported from the Committee on the Judiciary, with amendments, on page 2, line 23, after "(d)", to strike out "Any" and insert "With the consent of the plaintiff in any", and in line 24, after the word "court", to strike out "shall" and insert "such action or proceeding may".

The amendments were agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed—

FOREIGN AID

Mr. HUMPHREY. Mr. President, in a recent issue of the Minneapolis, Minn., Tribune, an excerpt from a speech by Mr. John Nuveen, a Chicago investment banker, dealing with foreign aid, appeared.

Mr. Nuveen is an authority on Latin American investment, and served as chief of the U.S. Economic Aid Mission to Greece in 1948 to 1949. His remarks indicate a brilliant insight into the basic

problem of foreign aid—that is, how we can get our aid to the people who need it, and past the individuals and groups who in varying degrees have blocked the effective use of our capital in previous years.

I commend Mr. Nuveen's remarks to my colleagues as we consider the appropriations for the foreign aid program.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point in my remarks the article entitled "Let's Interfere in Positive Way," by John Nuveen.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET'S INTERFERE IN POSITIVE WAY

My thesis is quite simple. China was the first major battle in the cold war and we lost it.

If nothing else, we should have profited by the mistakes we made in China, but almost everything that we have done in Cuba shows that our foreign policy planners did not learn anything from China, for we have repeated almost all the same errors and have lost another major battle in the cold war.

A failure to understand the forces at work in the world is further evidenced by the reappearance, through the John Birch society, of a neurotic fear of communism which was epidemic under McCarthyism and shows that a substantial number of our citizens are not prepared to support a realistic program if our representatives in Washington should develop one.

Debate about the personalities of Mao Tse-tung and Castro tends to obscure from our minds the most important single fact in the world today, i.e. the revolution of the "have-nots." This was the force that was shaping events in China in 1947 and 1948. This is the force that is shaping events in Latin America and the rest of the world today.

What we should have debated in 1947-48 was whether Chiang Kai-shek's government had a program for helping the underprivileged masses of China. He did not but Mao did—that's the simple reason we lost China.

Imagine a sales manager explaining to the president or the president explaining to the board of directors why their company lost a big order to a competitor and saying our competitor merely offered them what they wanted while we offered them what we wanted.

But this is not only what we did in China, it is what we have been doing in our so-called foreign-aid program ever since the Marshall plan. We have told country after country that they should want an army to fight Communist aggression. The people in these countries wanted food and shelter, good health, and schools for their children.

Supporting Chiang has not deterred communism on the mainland and supporting him and his mock cabinet to return and rule the mainland has long since been regarded as unrealistic. We are in trouble in Korea because for too long we supported Syngman Rhee without questioning his programs of economic and political reform. Bao Dai didn't save Indochina. We have lost North Vietnam and are about to lose Laos.

The one place where we were realistic was in the Philippines, where we helped them get rid of the corrupt leadership of Elpidio Quirino. When he was defeated by a coalition of opposition parties which we helped to bring about and was succeeded by Ramon Magsaysay, an honest patriot dedicated to raising the standard of living of the people, the Communist-inspired Huk rebellion collapsed. The unfortunate death of Magsaysay in a plane accident has produced some problems which are going to

require more attention than we have been giving them.

And what did we do in Cuba? We supported Batista after he seized the power of the presidency illegally for the second time. He played ball with American economic interests and he hated communism, so we gave him economic and military aid. We never debated what was being done to raise the standard of living of the mass of the Cuban people.

As a result we are in deep trouble in Cuba, but our greatest danger is not from Cuba but that we will become so preoccupied with Cuba that we won't see the 19 other Latin American countries.

There are potential revolutions in most of these countries. Cuba contains only 6,500,000 people, while the 19 other countries in Latin America have a total population of nearly 200 million people. There is much more hope of preventing a destructive, Cuban-type revolution in those countries than there is of trying to put together the pieces after one has exploded.

There are a couple of simple facts that we should realize about Latin America. When we examine Latin America as a whole, we find that almost 50 percent of the people are illiterate, 50 percent are hungry, and 50 percent have no property and so few possessions that they do not even sleep in beds.

Up to the present time we seem to have assumed that all the ills of Latin America were due to a lack of capital and could be cured with dollars. Cuba certainly has disillusioned us on that. It had more American capital in proportion to its size than any other country in Latin America except Venezuela with its oil.

Our State Department has excused its lack of concern with social revolutions by stating that we couldn't interfere in the internal affairs of other countries and has written this into the articles of the Organization of American States.

Actually "noninterference" is an ambiguous cliché if not a meaningless platitude. It is next to impossible for a nation that is as dominant in world trade and world affairs as the United States to avoid interference in the internal affairs of other countries.

The decision of our Government to stockpile or to stop stockpiling may mean the difference between boom and depression to a neighbor with a one-product economy. Laws regulating the creation and disposal of agricultural surpluses, financial policies, and commercial regulations have an impact on the members of the Organization of American States as well as the commonwealths in the United States.

We should have learned after 12 years of foreign-aid programs that we cannot give aid to another country without interfering in its internal affairs, since such aid is always interpreted by the political regime in power as an endorsement of it and used to strengthen or prolong its political power. The people of Latin America have considered our aid to be interference, regardless of our intentions.

Let's say frankly that we recognize that there is nothing that we can do economically or otherwise to help our neighboring countries that will not constitute interference to some degree in their internal affairs, but we will try to see that such interference will support the cause of raising the standard of living of all the people and not just profit a few politicians and economic royalists.

I am suggesting, if you please, that we only give economic aid with strings attached, but those strings will be to insure that our aid helps to better the lot of all the people in the recipient country, not strings to help our defense strategy.

I can offer you one bit of good news. President Kennedy in connection with the 500 million dollars of aid for Latin America

which has just been approved by the Congress, has announced that it will have to be matched by action on land and other necessary reforms by the countries receiving it. This is the first time that we have announced such a fact publicly as official policy.

Let's not be deceived about the Communists. They are dedicated, ruthless, and conscienceless, but let's not be completely preoccupied with our enemies. Let's get on with the job of giving leadership in the great unfinished world revolution, the revolution we started, the revolution dedicated to the proposition that all men are created equal and that the governments derive their just powers from the consent of the governed.

MILK PRODUCTION POLICY AND OTHER AGRICULTURAL POLICIES

Mr. HUMPHREY. Mr. President, I wish to speak for a few moments on an item which appeared in the Nation's press, and, in particular, in the press along the eastern seaboard. This item relates to an address delivered by Governor Rockefeller, of the State of New York. His address was on the subject of agricultural policy.

I have heard the Governor of New York speak before on agricultural policy. I find his statements interesting, if not informative. I find his statements worthy of news copy, even if not worthy of very serious consideration.

For 2½ days, now, the headlines in the Washington, D.C., press have dealt with a speech which Governor Rockefeller made at the New York State Fair; the speech related to the agricultural policy of this administration.

It seems that on September 6, Governor Rockefeller, when speaking in Syracuse, N.Y., at the annual farm dinner on the eve of the Governor's Day at the State Fair, made some observations on current Government agricultural policy which I believe to be worthy of some comment, if only for the purpose of setting the record straight.

First, Governor Rockefeller assailed the Secretary of Agriculture, Orville Freeman, for advocating a national milk sanitation law; and then Governor Rockefeller criticized the current feed grains program. Governor Rockefeller specifically charged the Secretary of Agriculture with "pushing legislation favoring his own home State of Minnesota and its immediate neighbors at the expense of the rest of the country."

Because the Secretary of Agriculture is from a State which produces milk, among many other agricultural commodities, I suppose he is inevitably going to be subjected to this type of politically motivated accusation, even though he is simply advocating a measure in the national interest, one that is intended to bring commerce in milk and milk products out of the 19th century into the present day.

Incidentally, Mr. President, the second largest crop in Minnesota is soybeans, one of Minnesota's major crops.

Mr. President, I am a sponsor, along with my colleague [Mr. McCARTHY] and the Senators from Wisconsin [Mr. PROXMIRE and Mr. WILEY] of Senate bill 212, to amend the Public Health Service Act to protect the public from unsanitary

milk and milk products shipped in interstate commerce, without unduly burdening such commerce. The bill relates to nationwide standards for milk sanitation. The standards are to be high, and will be enforced by the Public Health Service.

In my testimony on the bill I pointed out that by establishing the U.S. Public Health Service proven milk code as a quality yardstick for milk moving in interstate trade, we shall eliminate the use of arbitrary health standards as trade barriers against the shipment of high quality milk from one State to another. Currently, many eastern and southern milk consuming areas are hemmed in by sanitary standards which are designed more to protect local milk monopolies than to protect the public health.

Mr. President, milk and milk products are the only agricultural products which are prevented from moving freely in interstate commerce. This is obviously unfair to the producers who live in areas such as Minnesota, Wisconsin, North Dakota, South Dakota, and other States that provide the ideal conditions for volume production. It is also unfair to the consuming public to deny them the benefits resulting from the free flow of trade.

The National Milk Sanitation Act is intended to bring commerce in milk and milk products out of the 19th century and into the present day, for the betterment of the general welfare and the consumers.

Mr. President, the proposed National Milk Sanitation Act is designed to establish the U.S. Public Health Service's proven milk code as the quality yardstick for milk moving in interstate trade; and the National Milk Sanitation Act would eliminate the use of arbitrary local health standards as trade barriers against the shipment of high-quality milk from one State to another.

Currently, many markets are being restrained and restricted by these health ordinances.

Mr. President, it seems to me there is a basic contradiction in Governor Rockefeller's proposals on agricultural policy.

For example, in the speech Governor Rockefeller delivered at Syracuse, he said that by backing national milk sanitary standards, Secretary Freeman is "threatening to disrupt our existing system for orderly milk marketing."

He did not say anything had disrupted it; he merely said it was threatening to disrupt it. What he really means is that he is against a national milk sanitation code that will assure consumers of milk a high quality product that meets higher standards than the present New York State standards; and he means that he prefers to restrict the flow of milk, in order to have milk production in New York State higher than in some other areas of the Nation. I cannot see much economy in that, and I do not see much sound economic policy in it. Governor Rockefeller is really a protectionist in his home State of New York even as he sends telegrams to Members of Congress advocating foreign aid. He

"Communist conspiracy dedicated toward absolute domination of the world."
 "The steady advance of communism."
 "The Communist challenge."
 "Insidious ideology of world communism."
 "Nothing has happened to indicate that the goals of international communism have changed."

Furthermore, two proposed military seminars have been canceled—one in the Panama Canal Zone and the other at Fort Benjamin Harrison, Indianapolis, Ind.

The cancellation was inspired by the memorandum sent to the Pentagon by Senator J. W. FULBRIGHT and translated into policy July 10 which strongly indicates that military seminars should be abolished since these activities supposedly violate civilian control of the military. To support his argument in the memorandum Senator FULBRIGHT argues that the military should not educate the people on political issues.

While there may have been a few isolated cases in which local civilian speakers at seminars have touched on issues unrelated to military responsibilities, the seminars have dealt exclusively with military matters and the overall structure of the Communist world movement and Communist tactics.

The Fulbright memorandum, which seeks to set a new policy for the administration, states:

"Fundamentally, it is believed that the American people have little need to be alerted to the menace of the cold war."

These views are directly opposite to those held by President Kennedy, who on April 10 wired the National Military Industrial and Educational Conference, one of the groups conducting the seminars:

"It is important and vital work you are doing—alerting the attention of America's youth to the need for vigor as it prepares to face the realities of a world in conflict."

It is noteworthy that liberal and conservative Congressmen have participated equally in these nonpartisan, nonpolitical seminars. Those attending have included Senators HENRY L. JACKSON and PAUL H. DOUGLAS, as well as Senator ROMAN L. HRUSKA and Congressman WALTER H. JUDD.

Among the high figures in the Kennedy administration who have participated in the seminars are our Ambassador to the Soviet Union, Charles Bohlen; special advisers to the President, Walter W. Rostow and Dr. Henry Kissinger; and Assistant Secretary for Defense Paul Nitze.

GRANDMA MOSES DAY

Mr. KEATING. Madam President, I wish to pay, very briefly, a tribute to a gifted, beloved, and young-hearted citizen of the State of New York, Grandma Moses, who today celebrates her 101st birthday. This wonderful lady has become a legend in her time. It was not until she reached her seventies that she took up painting, but her gifts, though late flowering, were so unique, so infused with warmth, originality, and appeal that her fame has extended not only throughout this Nation but throughout the world of art.

Anna Mary Robertson Moses, of Eagle Bridge, N.Y., is 101 years old, but her spirit remains younger than springtime. She is in a rest home, under medical orders to relax, but inactivity is a prison to which Grandma cannot grow accustomed. She has told friends that she is impatient to get back to her board and brushes, for her mind has stories that her fingers want to tell.

It is not surprising, therefore, that all America remembers today that Grand-

ma Moses is celebrating her birthday. She has entered the hearts of all of us, and we are the better, the richer, because her spirit and her talent have touched our lives.

I think, therefore, that I express the sense of the Senate and of the American people when I say that Grandma Moses must be classified not merely as one of our American artists, but as one of our national spiritual resources.

DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES

The Senate resumed the consideration of the bill (H.R. 2883) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Mr. KEATING. Madam President, I call up my amendment "8-28-61-C" and ask to have it stated.

The PRESIDING OFFICER. The amendment will be stated for the information of the Senate.

The LEGISLATIVE CLERK. On page 2, beginning on line 23, it is proposed to amend subsection (d) to read as follows:

Upon a certification by the Attorney General that the defendant employee was acting within the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

Mr. KEATING. Madam President, H.R. 2883 represents the culmination of many years of effort to protect Government employees from personal liability for accidents occurring in the scope of their employment.

Under the present law, Federal maritime employees already enjoy such protection under the provisions of the Suits in Admiralty and Public Vessels Act. The pending bill is designed to provide equal treatment for thousands of non-maritime Government employees.

I have proposed similar legislation for many years both in the Senate and while a Member of the other body. There always has been strong support for some such measure, but disagreement as to details has prevented enactment prior to this date.

Under the original language of the present bill, which was virtually identical to S. 202, which I introduced on January 6, 1961, suits against the United States would be the exclusive remedy for damages resulting from the

operation by any Government employee of any motor vehicle while acting within the scope of his employment. Suits brought against the individual employee in such cases could be removed to the Federal court and be deemed a tort action against the United States.

Without such protection, Government employees driving motor vehicles in the course of their official duties must make a personal investment in insurance to protect themselves against damage suits. This imposes a heavy burden on a group of employees who are not particularly well paid and who must incur this expenditure only because of their Government duties. In many large firms, such costs are reimbursed or assumed by the employer, but there is no provision for such reimbursement to Federal personnel. As a result, the employee must foot the bill for an expense which the Government should reasonably be expected to absorb.

There have been many different legislative proposals for coping with this situation. One approach has been to provide indemnity to the employee for his damages or to pay the cost of his insurance. But these alternatives raise serious administrative and practical difficulties which provision for assumption of liability by the Government avoids. This is what S. 202 and H.R. 2883 are intended to accomplish. In effect, the United States would be a self-insurer for its employees which would be much less expensive and much more efficient than paying for private insurance for each employee or reimbursing him after judgment.

Unfortunately, this purpose would be seriously undermined by an amendment to H.R. 2883 adopted in committee. As originally introduced, H.R. 2883, like S. 202, provided that when a Government driver is sued in a State court on a claim resulting from his operation of a motor vehicle while acting within the scope of his employment, such action would be subject to removal to an appropriate Federal court on the motion of the United States. There it would be come an action against the United States under the Federal Tort Claims Act and be the plaintiff's exclusive judicial remedy. The committee's amendment, however, would allow such removal only with the plaintiff's consent.

The committee amendment is objectionable on several grounds:

First. The purpose of the bill is to make the United States wholly liable for any damages caused by its employees in the course of their duties and to protect the employee from any dual liability. This purpose would be frustrated if plaintiffs can continue to proceed against individual employees in State court proceedings.

Second. Under the committee's amendment, employees would have to continue to incur the expense of insurance to protect themselves against personal liability, which defeats another one of the objectives of the bill.

Third. Under the provisions of section 5 of the Suits in Admiralty Act—46 U.S.C. § 745—which is applicable to Federal maritime employees, the plaintiff has no option—the remedy against the

United States is exclusive and suits must be brought in the district courts. The committee's amendment to H.R. 2883 would be inconsistent with this precedent and would establish different rules for maritime and nonmaritime employees of the United States.

Fourth. Under the Federal Tort Claims Act, the Federal courts have original jurisdiction over all other claims against the United States. The committee's amendment also is inconsistent with this scheme.

Fifth. The President last year vetoed H.R. 7577—a similar bill—because of the same amendment which the committee has again recommended. Approval of the committee amendment would invite the same action this year. The matter has been long delayed and it is unreasonable to jeopardize the legislation again this year.

The case against the committee's amendment is very well stated in this excerpt from President Eisenhower's veto message on H.R. 7577:

This amendment is unfortunate, for any plaintiff, by refusing to give his consent, could prevent the conversion of the action to one under the Federal Tort Claims Act and thus thwart the sound purposes of the original bill. The amendment also makes the bill inconsistent internally and could give rise to needless litigation.

It should be pointed out that in his message, President Eisenhower reiterated his strong support of the legislation in its original form.

Following the report of the committee, I consulted other Senators and some of the employee groups most directly affected in an effort to find a basis for preserving the original purpose of H.R. 2883 without dealing unfairly with the legitimate interests of any potential plaintiffs. The result of this effort is the amendment designated as "8-28-61—C." This amendment would not require the plaintiff's consent to removal of suits against individual employees, but it would require the Attorney General—as a condition for removal—to certify that the employee was acting within the scope of his employment at the time of the incident out of which the suit arose.

This amendment avoids all of the objections to the committee's amendment and at the same time gives full protection to the plaintiff's interests. It makes certain that suits will not be removed improperly, but protects the employee from any personal liability where it is conceded that he was acting within the scope of his employment. Since the bill also provides that a suit will be remanded to the State court upon a determination after removal that the United States is not liable under the Federal Tort Claims Act, the plaintiff will be effectively spared any disadvantage under the proposed amendment.

The distinguished Senator from North Carolina [Mr. ERVIN] and the distinguished Senator from South Carolina [Mr. JOHNSTON] have cooperated and have worked hard on the preparation of this proposed legislation. It has been the subject of discussion at some length in the Committee on the Judiciary. I believe that this amendment reconciles

all points of view and that its adoption will assure the enactment—at long last—of this important legislation. This amendment deserves the support of everyone interested in fair treatment for our dedicated Government employees. I hope it will be approved.

Mr. JAVITS. Madam President, will the Senator yield?

Mr. KEATING. I am happy to yield.

Mr. JAVITS. I see the distinguished Senator from South Carolina [Mr. JOHNSTON] is on his feet, which makes this a very auspicious moment. I shall take only a moment to express my support of my colleague's amendment, and also to express my pleasure because of the initiative he has shown in bringing about a resolution to this longstanding and apparently very trying problem, which will be very helpful to postal employees and to other civil service employees.

I thank my colleague.

Mr. KEATING. I am grateful to my colleague.

Mr. JOHNSTON. Madam President, the Senator from North Carolina [Mr. ERVIN] and I agree with respect to the value of the amendment which the Senator from New York has offered. We feel it will help a great deal. It will help also in regard to procedure.

It is possible, if we do not agree to the amendment, that some suits would be removed to the Federal court and then a question raised as to whether the employee was acting at the time the accident happened in the regular line of employment under his regular duties of employment. That being so, we believe the amendment is a very fine amendment.

We have worked in the committee a great deal on this, not only for 1 day, but day after day.

The Senator from North Carolina [Mr. ERVIN] has given this a great deal of thought, as has the Senator from New York [Mr. KEATING].

I am glad we have reached an amiable conclusion, which I think will be beneficial to Government workers and, at the same time, will be beneficial to the Government.

After a man has been sued and a judgment rendered against him, it is too late for the Government to raise the point as to whether the matter should have been properly handled in the court. For that reason I think passage of the proposed legislation is necessary.

I am proud that all parties have gotten together. It looks as if we are on the road to having the bill approved by the President of the United States.

Mr. ERVIN. Madam President, I think the bill before the Senate, like similar bills considered in previous Congresses, illustrates in about as forceful a way as can be illustrated the truth of Woodrow Wilson's statement that Congress in committee is Congress at work.

The members of the Committee on the Judiciary, and particularly the able and distinguished senior Senator from South Carolina [Mr. JOHNSTON] and the able and distinguished junior Senator from New York [Mr. KEATING], have put in many hours of work in an effort to reach

a satisfactory conclusion in respect to the interests of two different groups of people and a reconciliation with the tradition that cases against the Federal Government should be tried in Federal courts rather than State courts.

The first interest with which we have been concerned is the interest of parties injured by a Government employee. These parties are entitled to have their cases adjudicated, and they are entitled to be protected against unnecessary removals of the cases to Federal courts, where there is no liability on the part of the Government under the Federal Tort Claims Act.

The second interest with which we are concerned is that of the Federal employee, whether he be a postal employee or an employee in some other Federal activity, who causes injury unintentionally in the performance of his duties as an employee of the Federal Government. He is certainly entitled, under modern theories, to have liability for the act which he does for the Government borne by the Government, and he is entitled to have his cause defended by the Attorney General.

We have had the tradition that actions against the Federal Government should be tried in Federal courts.

This has not been an easy problem to resolve. There have been many different formulas proposed for its solution. In my judgment, the proposal which is embodied in the amendment offered by the able and distinguished junior Senator from New York is the best formula which has yet been devised.

The amendment, which would take care of the interests of the injured Government employee in the tradition that actions against the Federal Government shall be tried in the Federal court, is about as fine a solution as could be devised. For that reason, I support the amendment. So far as I know, there is no opposition to the amendment among those who have been interested for a long time in this particular problem.

I commend the able and distinguished senior Senator from South Carolina [Mr. JOHNSTON] and the able and distinguished junior Senator from New York [Mr. KEATING], for the interest they have taken in the problem and the many hours of work they have contributed to its solution.

Mr. KEATING. Madam President, will the Senator yield?

Mr. ERVIN. I am delighted to yield.

Mr. KEATING. I think the Senator is unduly modest. His learning and legal acumen had a great deal to do with the preparation of the amendment. As he will remember, although in his modesty he would not so state, he was the first member of the committee to raise the question which culminated in the amendment. He was very cooperative, and I express my gratitude to him for his generous treatment of all of us in the committee.

Mr. ERVIN. Madam President, I thank the Senator from New York for his far too generous remarks concerning myself.

Mr. JOHNSTON. Madam President, will the Senator yield?

Mr. ERVIN. I yield.

Mr. JOHNSTON. I join in the remarks of the Senator from New York concerning the Senator from North Carolina. The Senator from North Carolina devoted a great deal of effort to this particular bill. He probably gave more time to the subject than almost any other member of the committee. At times questions were assigned to him to work out solutions to the problem that we had in hand and bring them to the committee. He has done a distinguished piece of work in putting the proposed legislation in the condition in which it is today. I am proud to tell the public that the Senator from North Carolina ought to be given credit for the work he did.

Mr. ERVIN. I appreciate the generous remarks of my good friend from South Carolina. I am indeed happy that we have apparently reached a solution of a very thorny legal problem in a manner which is fair to the various interests involved.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

Mr. PROXMIER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HUMPHREY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Madam President, what is the pending business?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

Mr. HUMPHREY. Madam President, may I ask what the amendment of the Senator from New York is?

The PRESIDING OFFICER. The amendment will be stated.

The LEGISLATIVE CLERK. On line 23, it is proposed to amend subsection (d) to read as follows:

Upon a certification by the Attorney General that the defendant employee was acting within the scope of his employment at the

time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceeding deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

Mr. HUMPHREY. May I ask the chairman of the Committee on Post Office and Civil Service as to his views on the amendment?

Mr. JOHNSTON. We have agreed to the amendment. We feel it will make the bill much more workable, and for that reason we have agreed to it.

Mr. HUMPHREY. The Senator from New York generally has a good amendment.

Mr. KEATING. I am grateful to the Senator for his complimentary reference.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from New York.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2883) was read the third time and passed.

THE GRANTING OF LAND AND BUILDINGS TO RELIGIOUS-AFFILIATED SCHOOLS UNDER THE SURPLUS PROPERTY ACT OF 1944

Mr. GOLDWATER. Madam President, on July 20 of this year I submitted for the RECORD a partial list of religious-affiliated schools which have been granted land and buildings under the Surplus Property Act of 1944. At that time I stated that I would offer a complete list to the Senate as soon as a tabulation had been made by the Department of Health, Education, and Welfare.

I have now received this information from the Department of Health, Education, and Welfare, and it shows that 488 grants of lands and buildings have been made to religious-affiliated schools under the Surplus Property Act of 1944.

Madam President, I ask unanimous consent to have printed in the RECORD at this point, as a part of my remarks, a compilation of these schools, together with a tabulation bearing on this subject, prepared by the Department of Health, Education, and Welfare.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

35 religious denominations which have received Federal Government grants for educational facilities under the Surplus Property Act of 1944

	Number of grants
1. Roman Catholic.....	185
2. Seventh-day Adventist.....	120
3. Baptist Church.....	31
4. Methodist Church.....	26
5. Protestant.....	19
6. Lutheran.....	19
7. Christian.....	15
8. Assembly of God Church.....	11
9. Church of Christ.....	8
10. Presbyterian.....	6
11. Mennonite.....	5
12. Episcopalian.....	4
13. Interdenominational Church.....	4
14. Nondenominational.....	4
15. Mormon.....	3
16. Brethren Church.....	3
17. Berean Mission.....	2
18. Moravian Church of America.....	2
19. Congregational Church.....	2
20. Japanese Holiness Church.....	2
21. Brethren-in-Christ Church.....	2
22. Congregational Methodists.....	2
23. Gospel Mission Church.....	1
24. Church of the Nazarene.....	1
25. Fundamental Baptist Church.....	1
26. Church of the Brethren.....	1
27. Disciples of Christ Church.....	1
28. Evangelical Church.....	1
29. Quaker.....	1
30. Pilgrim Holiness Church.....	1
31. Jewish.....	1
32. Church affiliated (denomination unknown).....	1
33. Church affiliated (denomination unknown).....	1
34. Church affiliated (denomination unknown).....	1
35. Church affiliated (denomination unknown).....	1
Total number of grants to sectarian schools.....	488

Transfers of real properties to denominational-sponsored organizations for health and educational uses through June 30, 1961

LEGEND

1. On site—Land and/or buildings conveyed by deed with restrictions.
 2. Off site—Buildings and other facilities transferred for removal and relocation.
 Department has no records of transfers made prior to Jan. 1, 1950, by predecessor agency.
3. H—Health transfers.
 4. E—Educational transfers.
 5. PBA—Public benefit allowances granted of fair value.

State and surplus facility	Transferee	Property transferred		Acquisition cost	Fair value	Use		Percentage PBA	Date of transfer ¹	Sponsoring denomination
		Acres	Buildings			II	E			
ALABAMA										
On site: None.										
Off site: Craig AFB	Assumption of Our Lady		2	\$30,243	\$1,000		E	95	Nov. 4, 1960	Catholic.
Total			2	30,243	1,000		1			
ALASKA										
On site: None.										
Off site:										
Elmendorf Air Force Base	Copper Valley School	0	3	10,000	150		E	95	Apr. 23, 1956	Do.
Eska Mine	Faith Hospital of Central Alaskan Missions, Inc.	0	2	5,000	600	H		95	June 5, 1956	Mission.
Elmendorf Air Force Base	Alaska Methodist Church School	0	1	3,000	300		E	95	July 6, 1956	Methodist.
Anchorage International Airport	Providence Hospital	0	1	39,620	3,000	H		95	Jan. 14, 1957	Catholic.
Ladd Air Force Base	Catholic Bishop of Northern Alaska	0	1	11,880	750		E	95	June 2, 1958	Do.
Fort Richardson	Northern Pacific Union Conference of SDA (School of Anchorage).	0	2	2,687	1,000		E	95	Nov. 12, 1958	Seventh-day Adventist.
FAA Station, King Salmon	Northern Pacific Union Conf. of SDA (Bristol Bay Mission School).	0	3	6,000	1,500		E	95	Mar. 9, 1959	Do.
U.S. Naval Station, Kodiak	St. Mary's School	0	1	69,300	1,500		E	95	May 20, 1959	Catholic.
Elmendorf Air Force Base	Alaska Mission of SDA	0	1	22,372	700		E	95	Oct. 23, 1959	Seventh-day Adventist.
Fort Richardson M. R.	Alaska Methodist University	0	2	23,160	2,100		E	95	Apr. 6, 1960	Methodist.
Elmendorf Air Force Base	Alaska Mission of SDA	0	1	22,892	500		E	95	Apr. 4, 1960	Seventh-day Adventist.
FAA Station, Bethel	Moravian Childrens' Home & School	0	2	68,400	6,800		E	95	June 16, 1960	Moravian Church of America.
FAA Repeater Station, Kaltag	Catholic Bishop of Northern Alaska (St. Mary's School and Holy Cross School).	0	3	117,000	11,700		E	95	Sept. 16, 1950	Catholic.
Total		0	25	401,311	30,600	2	11			
ARIZONA										
On site: Thunderbird Field No. II.	Arizona Conference Corp. of SDA (Thunderbird Academy).	720	31	743,000	258,784		E	80	July 2, 1953	Seventh-day Adventist.
Off site:										
Williams Air Force Base	St. John's Indian School		1	495	110		E	95	Jan. 15, 1951	Catholic.
Do	Cook Christian Training School		1	495	105		E	95	Jan. 17, 1951	Christian.
Do	Arizona Academy of SDA, Phoenix		2	958	200		E	95	Jan. 25, 1951	Seventh-day Adventist.
Do	St. Anne Kindergarten		2	1,000	225		E	95	Jan. 26, 1951	Catholic.
Do	St. Peter's School		1	506	130		E	95	do	Do.
Do	San Solano Missions		5	2,439	450		E	95	do	Do.
Do	Grand Canyon College		5	2,506	450		E	95	Feb. 7, 1951	Baptist.
Do	Cook Christian Training School		1	473	110		E	95	Feb. 16, 1951	Christian.
Coolidge Army Air Field	Navajo Mission School of SDA		1	1,825	132		E	95	Apr. 30, 1951	Seventh-day Adventist.
Poston War RAP	do		7	30,829	2,121		E	95	Nov. 15, 1951	Do.
Navajo Ordnance Depot	do		1	4,500	75		E	95	May 15, 1950	Do.
Williams Air Force Base	St. John's Indian School		2	990	200		E	95	Oct. 21, 1952	Catholic.
Poston War relocation project	Mennonite Mission School		1	525	105		E	95	Mar. 20, 1953	Mennonite.
Williams Air Force Base	Navajo Mission School of SDA		2	1,001	210		E	95	Apr. 9, 1953	Seventh-day Adventist.
Do	St. John's Indian School		1	506	110		E	95	May 1, 1953	Catholic.
Do	do		1	495	115		E	95	June 29, 1953	Do.
White Rock Housing project	Navajo Mission School of SDA		3	12,951	7,905		E	95	Aug. 25, 1953	Seventh-day Adventist.
Williams Air Force Base	Grand Canyon College		2	990	180		E	95	do	Baptist.
White Rock Housing project	Navajo Mission School of SDA		2	5,000	1,250		E	95	Dec. 14, 1953	Seventh-day Adventist.
Denver Federal Center	Navajo Mission School		1	1,217	1,735		E	95	Mar. 22, 1954	Do.
Poston War Relocation Center	Navajo Mission School of SDA		1	18,994	580		E	95	Aug. 8, 1955	Do.
Vanadium Corp. of America	Navajo Mission School and Clinic		1	8,000	300	H		95	Apr. 16, 1956	Do.
Navajo Ordnance Depot	Mennonite Mission Boarding School		1	16,000	750		E	95	June 7, 1957	Mennonite.
Homojo Government Housing Project.	Navajo Mission School of SDA		1	2,100	250		E	95	Dec. 3, 1957	Seventh-day Adventist.
Mare Island Naval Shipyard	do		1	4,322	500		E	95	Jan. 23, 1958	Do.
Do	Tucson Intermediate School, SDA		2	8,645	1,000		E	95	do	Do.
Navajo Ordnance Depot	Navajo Mission School of SDA		1	5,242	500		E	95	Jan. 31, 1958	Do.
Luke Air Force Base	Good Shepherd School for Girls		3	9,624	1,700		E	95	June 20, 1958	Catholic.
Gun Site No. 60 (California)	Navajo Mission School of SDA		4	8,832	2,800		E	95	July 20, 1958	Seventh-day Adventist.
Navajo Ordnance Depot	do		2	3,600	1,000		E	95	Feb. 20, 1959	Do.
U.S. Naval Amphibious Base	Thunderbird Academy		2	7,951	2,400		E	95	May 15, 1959	Do.
Mare Island Naval Shipyard	do		2	8,645	1,000		E	95	Mar. 23, 1960	Do.
AA Gun Site No. 60, Calif.	Navajo Mission School of SDA		3	5,152	1,700		E	95	Aug. 16, 1960	Do.
Golden Gate AA Site, Calif.	do		1	2,208	700		E	95	Sept. 16, 1960	Do.
Tiburon AA Site, Calif.	do		1	2,208	700		E	95	Sept. 19, 1960	Do.
Luke Air Force Base	Southwest Indian School		4	17,247	2,000		E	95	Nov. 4, 1960	Gospel Mission.
Mare Island Naval Shipyard	Navajo Mission School of SDA		2	8,645	1,000		E	95	Jan. 4, 1961	Seventh-day Adventist.
Total		720	105	950,116	293,582	1	37			
ARKANSAS										
On site:										
Camp J. T. Robinson, Little Rock.	Central Baptist College	335	71	1,989,207	302,025		E	100	Jan. 23, 1950	Baptist.
Walnut Ridge AB	Southern Baptist College	121	110	1,403,552	436,351		E	100	Apr. 29, 1948	Do.

¹ Dates prior to Jan. 1, 1950, indicate cases processed by WAA, our predecessor agency. All others were processed by DHEW, which has the compliance responsibility for all cases.

Digest of CONGRESSIONAL PROCEEDINGS

OFFICE OF
BUDGET AND FINANCE
(For information only,
should not be quoted
or cited)

OF INTEREST TO THE DEPARTMENT OF AGRICULTURE

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For actions of Sept. 11, 1961
87th-1st No. 158

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HIGHLIGHTS: Senate passed Mexican farm labor bill. Senate agreed to conference report on saline water conversion bill. House agreed to conference report on Labor-HEW appropriation bill. House received conference report on State-Justice appropriation bill. Sen. Humphrey introduced and discussed sugar bill. Extension of remarks of Rep. Cooley reviewing farm legislation.

HOUSE

1. APPROPRIATIONS. Received the conference report on H. R. 7371, the State-Justice appropriation bill (H. Rept. 1163). pp. 17652-3
Agreed to the conference report on H. R. 7035, the Labor-HEW appropriation bill, and acted on amendments in disagreement. pp. 17658-65
Agreed to the conference report on H. R. 8302, the military construction appropriation bill. pp. 17674-9
2. SALINE WATER. Received the conference report on H. R. 7916, to expand and extend the saline water conversion program being conducted by the Interior Department (H. Rept. 1158). pp. 17653-5
3. SMALL BUSINESS. Conferees were appointed on H. R. 8762, to amend the Small Business Act to increase the amount available for regular business loans thereunder. Senate conferees have already been appointed. p. 17657
4. WATERSHEDS. The Agriculture Committee approved work plans for the following watersheds: East Fork of Pond River, Ky.; Souhegan River, Mass.-N. H.; Ahoskie Creek, N. C.; David's Creek, Ia.; Davis-Battle Creek, Ia.; Ryan-Henschal, Ia.; Cane Creek, Okla.; Dunlap Creek, Pa.; Little Satilla Creek, Ga.; Tallahalla

Creek, Miss.; Sarasota West Coast, Fla.; and Kickapoo Creek, Wis. p. 17652

5. FOREIGN TRADE. The Post and Civil Service Committee reported without amendment H. R. 7791, to provide for the collection and publication of foreign commerce and trade statistics (H. Rept. 1160). p. 17703

6. PERSONNEL. Agreed to the Senate amendment on H. R. 2883, to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment. This bill will now be sent to the President. p. 17658

Received from the Civil Service Commission a proposed bill "to provide for the payment of compensation and restoration of employment benefits to certain Federal officers and employees improperly deprived thereof." pp. 17702-3

Agreed to the Senate amendment (with an amendment) to H. R. 5490, to provide for more effective participation in the reserve components of the Armed Forces, and to provide for two weeks military service on a calendar year basis rather than a fiscal year basis. pp. 17663-5

7. FOREIGN AFFAIRS. The "Daily Digest" states that the Foreign Affairs Committee "Completed markup of H. R. 7936, to establish a U. S. Disarmament Agency for World Peace and Security. Ordered a clean bill introduced in the House." pp. D835-6

8. FOREIGN TRADE. Rep. Reuss discussed the European Common Market, and quoted Secretary Freeman as saying "American agriculture is concerned over the possibility of a restrictive import policy on the part of the Common Market which would reduce our sales to the area of wheat, rice, feed grains, livestock products, poultry, tobacco, and certain fruits." pp. 17694-6

SENATE

9. FARM LABOR. By a vote of 76 to 9, passed with amendments H. R. 2010, to extend and amend the Mexican farm labor program (pp. 17738-46). By a vote of 42 to 40, agreed to an amendment by Sen. McCarthy to provide that no Mexican worker recruited under the program shall be made available to any employer or permitted to remain in the employ of any employer unless the employer offers and pays such worker wages at least equivalent to 90 percent of the average farm wage in the State in which the area of employment is located, or 90 percent of the national farm wage average, whichever is lesser. A motion to reconsider the vote by which the amendment was agreed to was tabled by a vote of 42 to 41. (pp. 17738-42). By a vote of 35 to 49, rejected an amendment by Sen. Keating which would have provided that before Mexican workers could be employed, efforts must be made to attract domestic workers by offering them conditions of employment comparable to those offered Mexican workers (pp. 17743-45). Conferees were appointed (p. 17746).

10. SALINE WATER. Received and agreed to the conference report on H. R. 7916, to extend and expand the saline water conversion program (H. Rept. 1158). As agreed to the bill authorizes the appropriation of \$75 million over a 6-year period, from fiscal year 1962 through fiscal year 1967, for the program. pp. 17796-800

11. WATER RESOURCES. The Interior and Insular Affairs Committee voted to report (but did not actually report) with amendment H. J. Res. 225, to grant the consent of Congress to the Delaware River Basin compact. p. D834

12. PUBLIC LANDS. The Interior and Insular Affairs Committee reported without amendment H. R. 2280, to provide for the withdrawal of certain public lands 40 miles east of Fairbanks, Alaska, for use by the Department of the Army as a Nike

Mrs. CHURCH. Mr. Speaker, this is one quorum call I am sure the gentleman from Michigan will not make, and I cannot resist the opportunity to make it for him.

Mr. HOFFMAN of Michigan. Mr. Speaker, will the gentlewoman yield?

I certainly would have made the point of order of no quorum if I had known what they were going to say.

The SPEAKER pro tempore. Does the gentlewoman withdraw her point of order?

Mrs. CHURCH. I withdraw my point of order, Mr. Speaker.

Mr. JONAS. Mr. Speaker, I ask unanimous consent that all Members may extend their remarks following the remarks of the gentlewoman from Illinois [Mrs. CHURCH].

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. HOEVEN. Mr. Speaker, I congratulate my good friend CLARE HOFFMAN on the occasion of his 86th birthday and both Mr. and Mrs. Hoffman on the observance of their 62d wedding anniversary.

CLARE HOFFMAN is one of the most remarkable men I have ever known. He is a peer among rugged individualists. Fortright, brave, determined, sincere and honest are only a few words which typify CLARE HOFFMAN as we all know him. He fills a most valuable place in the daily deliberations of the House of Representatives.

May CLARE HOFFMAN enjoy many more birthdays and may he and his good wife share life's richest blessings in the days that lie ahead.

CORRECTION OF THE RECORD

Mr. ROONEY. Mr. Speaker, on page 17006 of the CONGRESSIONAL RECORD of September 5, 1961, in the middle column, in the third paragraph of my remarks, I am quoted as using the word "spending." Actually, I used the word "pending."

Mr. Speaker, I ask unanimous consent that the permanent RECORD be corrected accordingly.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

CALL OF THE HOUSE

Mrs. CHURCH. Mr. Speaker, I make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Mr. ALBERT. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 193]

Alger	Barry	Brewster
Anderson, Ill.	Bass, N.H.	Bromwell
Anfuso	Battin	Brooks, La.
Arends	Beermann	Brown
Ashbrook	Bell	Broyhill
Ashley	Bolling	Bruce
Ayres	Boykin	Buckley
Barrett	Brademas	Burke, Ky.

Cahill	Healey	O'Brien, N.Y.
Celler	Hébert	O'Hara, Mich.
Clancy	Hemphill	O'Neill
Cook	Herlong	Osmer
Cooley	Holland	Philbin
Corbett	Holtzman	Pilcher
Curtis, Mo.	Horan	Poage
Dague	Ikard, Tex.	Powell
Davis, Tenn.	Jennings	Rabaut
Delaney	Joelson	Rains
Dent	Jones, Ala.	Reece
Derwinski	Jones, Mo.	Reifel
Devine	Keith	Rogers, Tex.
Diggs	Kilburn	Rostenkowski
Dole	Kilday	Roudebush
Dominick	King, N.Y.	Rousselot
Donohue	Kunkel	St. Germain
Dooley	Landrum	Santangelo
Dulski	Latta	Schadeberg
Durno	Lindsay	Schenck
Dwyer	McCulloch	Scherer
Ellsworth	McSweeney	Schweiker
Evins	McVey	Scranton
Farbstein	Macdonald	Shelley
Findley	MacGregor	Shriver
Finnegan	Machrowicz	Sibal
Fino	Martin, Nebr.	Slack
Flynt	Mathias	Stafford
Friedel	May	Staggers
Gallagher	Meader	Stephens
Garland	Miller, Clem	Stratton
Gavin	Miller, N.Y.	Teague, Tex.
Gialmo	Minshall	Thompson, La.
Gilbert	Monagan	Thompson, N.J.
Glenn	Moore	Thomson, Wis.
Goodell	Moorehead,	Toll
Goodling	Ohio	Tuck
Graham	Moorhead, Pa.	Tupper
Green, Pa.	Morgan	Vinson
Griffiths	Morrison	Wallhauser
Hall	Morse	Westland
Halpern	Mosher	Whalley
Hardy	Moulder	Widnall
Harrison, Va.	Multer	Wilson, Ind.
Harsha	Nix	Young
Harvey, Mich.	Nygaard	Zelenko

The SPEAKER pro tempore. On this rollcall, 277 Members have answered to their names, a quorum.

By unanimous consent further proceedings under the call were dispensed with.

AMENDMENT TO SMALL BUSINESS INVESTMENT ACT OF 1958

Mr. SPENCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (S. 902) to amend the Small Business Investment Act of 1958, and for other purposes, with House amendment thereto, insist on the House amendment and request a conference with the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. SPENCE, PATMAN, RAINS, MULTER, McDONOUGH, WIDNALL, and DERWINSKI.

AMENDMENT TO SMALL BUSINESS ACT TO INCREASE AMOUNT AVAILABLE FOR REGULAR BUSINESS LOANS THEREUNDER

Mr. SPENCE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 8762) to amend the Small Business Act to increase the amount available for regular business loans thereunder, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky? [After a pause.]

The Chair hears none, and appoints the following conferees: Messrs. SPENCE, PATMAN, RAINS, MULTER, McDONOUGH, WIDNALL, and DERWINSKI.

PROHIBITING TRAVEL OR TRANSPORTATION IN AID OF RACKETEERING ENTERPRISES

Mr. ROGERS of Colorado submitted the following conference report and statement on the bill (S. 1653) to amend title 18, United States Code, to prohibit travel or transportation in commerce in aid of racketeering enterprises:

CONFERENCE REPORT (H. REPT. No. 1161)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 1653) To amend title 18, United States Code, to prohibit travel or transportation in commerce in aid of racketeering enterprises, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That chapter 95 of title 18, United States Code, is amended (a) by adding the following new section at the end thereof:

"§ 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

"(a) Whoever travels in interstate or foreign commerce or uses any facility in interstate or foreign commerce, including the mail, with intent to—

"(1) distribute the proceeds of any unlawful activity; or

"(2) commit any crime of violence to further any unlawful activity; or

"(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity

and thereafter performs or attempts to perform any of the acts specified in subparagraphs (1), (2), and (3), shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

"(b) As used in this section "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics, or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, or (2) extortion or bribery in violation of the laws of the State in which committed or of the United States.

"(c) Investigations of violations under this section involving liquor or narcotics shall be conducted under the supervision of the Secretary of the Treasury."

and (b) by adding the following item to the analysis of the chapter:

"Sec. 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises."

EMANUEL CELLER,
PETER W. RODINO, Jr.,
BYRON G. ROGERS,
WILLIAM M. MCCULLOCH,
GEORGE MEADER,

Managers on the Part of the House.

JAMES O. EASTLAND,
ESTES KEFAUVER,
OLIN D. JOHNSTON,
EVERETT MCKINLEY DIRKSEN,
ROMAN L. HRUSKA,

Managers on the Part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill, S. 1653, to amend title 18, United States Code, to prohibit travel or transportation in commerce in aid of racketeering enterprises, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommend in the accompanying conference report:

The House passed the Senate bill after amending it by striking out all after the enacting clause and inserting its own provisions. The Senate insisted upon its version and requested a conference; the House then agreed to the conference.

The conference report recommends that the Senate recede from its disagreement to the House amendment and agree to the same with an amendment, the amendment being to insert in lieu of the matter proposed to be inserted by the House amendment the matter agreed to by the conferees, and the House agree thereto.

In substance, the conference report contains the language of the House amendment with a few exceptions which are subsequently explained in detail.

The bill, as passed by the Senate, prohibited travel or the use of any facility for transportation in interstate or foreign commerce, including the mail, in furtherance of "extortion or bribery in violation of the laws of the State in which committed or of the United States." The amendment of the House, however, limited the coverage of the bill as it applied to extortion or bribery to "extortion or bribery in connection with gambling, liquor, narcotics, or prostitution." The version agreed to by the conferees accepts the Senate coverage so that the agreed amendment now covers "extortion or bribery in violation of the laws of the State in which committed or of the United States."

The Senate version also included in the definition of the term "unlawful activity" liquor on which the Federal excise tax had not been paid but the House amendment deleted this condition so as to include within the term "unlawful activity" liquor regardless of the payment of the Federal excise tax. The language adopted by the conferees is the language of the Senate version so as to limit "unlawful activity" on liquor on which the Federal excise tax had not been paid.

The Senate version of the bill was composed of two separate sections, viz., (1) relating to travel in interstate and foreign commerce, and (2) relating to the use of any facility for transportation in interstate or foreign commerce while the House version combined these two separate sections into a single section. On this particular matter, the House version was agreed to by the conferees so that the amendment to chapter 95 of title 18, United States Code, merely adds a new section at the end thereof designed as section 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises.

Finally, the language which was contained in the Senate bill "after such travel" which related to the three specified acts involving travel or the use of any facility in interstate or foreign commerce to further unlawful activity is eliminated in the conference report in conformity with the House version which had eliminated the language as superfluous in view of the fact that the insertion of the word "thereafter" conforms the bill to the requirement that an act be performed subsequent to the travel in or the use of the interstate or foreign commerce facility. Thus, there is required the commission of an overt act after having

travelled or after having used the facilities of interstate or foreign commerce.

EMANUEL CELLER,
PETER W. RODINO, Jr.,
BYRON G. ROGERS,
WILLIAM M. McCULLOCH,
GEORGE MEADER,

Managers on the Part of the House.

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent for the immediate consideration of the conference report on the bill S. 1653 just filed.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

Mr. HARRIS. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from Colorado if there is any change in interpretation as affects certain businesses which we discussed on the floor of the House when the bill was before the House for consideration.

Mr. ROGERS of Colorado. As to the four categories, there is no change whatsoever.

Mr. HARRIS. It remains just as it was explained on the floor of the House when the bill was being considered over here?

Mr. ROGERS of Colorado. Yes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. ROGERS of Colorado. Mr. Speaker, I ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The Clerk read the statement.

The SPEAKER pro tempore. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

DEFENSE OF SUITS AGAINST FEDERAL EMPLOYEES

Mr. LANE. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 2883) to amend title 28, entitled "Judiciary and Judicial Procedure," of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, strike out all after line 22 over to and including line 10 on page 3 and insert:

"(d) Upon a certification by the Attorney General that the defendant employee was acting within the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial

by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court."

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. BYRNES of Wisconsin. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Massachusetts [Mr. LANE] could tell us whether this has been cleared with the minority members on our committee, and whether it is agreeable to them?

Mr. LANE. Yes; it has been cleared. All parties are satisfied with the amendment as placed on this bill by the Senate. The amendment merely calls for an affidavit.

Mr. BYRNES of Wisconsin. I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The Senate amendment was concurred in.

A motion to reconsider was laid on the table.

DEPARTMENTS OF LABOR, AND HEALTH, EDUCATION, AND WELFARE APPROPRIATION BILL, 1962

Mr. FOGARTY. Mr. Speaker, I call up the conference report on the bill (H.R. 7035) making appropriations for the Departments of Labor, and Health, Education, and Welfare, and related agencies, for the fiscal year ending June 30, 1962, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

The Clerk read the statement.

(For conference report and statement, see proceedings of the House of September 7, 1961.)

Mr. FOGARTY. Mr. Speaker, when the House passed this bill last May 17, it carried a total of \$4,327,457,000. A little over 2 months later on July 25, the Senate passed the bill with an increase to \$5,161,380,000. It should be pointed out, however, that in the interim between the time the House passed the bill and the time of Senate action the President submitted amendments to the budget which added \$722,133,000. In large part these amendments were due to new legislation passed by this Congress.

As agreed to in conference the total of the bill is \$4,915,965,000. This is \$245,415,000 less than the Senate bill; \$588,



Public Law 87-258
87th Congress, H. R. 2883
September 21, 1961

An Act

75 STAT. 539.

To amend title 28, entitled "Judiciary and Judicial Procedure", of the United States Code to provide for the defense of suits against Federal employees arising out of their operation of motor vehicles in the scope of their employment, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2679 of title 28, United States Code, is amended (1) by inserting the subsection symbol "(a)" at the beginning thereof and (2) by adding immediately following such subsection (a) as hereby so designated, four new subsections as follows:

"(b) The remedy by suit against the United States as provided by section 1346(b) of this title for damage to property or for personal injury, including death, resulting from the operation by any employee of the Government of any motor vehicle while acting within the scope of his office or employment, shall hereafter be exclusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim.

"(c) The Attorney General shall defend any civil action or proceeding brought in any court against any employee of the Government or his estate for any such damage or injury. The employee against whom such civil action or proceeding is brought shall deliver within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon him or an attested true copy thereof to his immediate superior or to whomever was designated by the head of his department to receive such papers and such person shall promptly furnish copies of the pleadings and process therein to the United States attorney for the district embracing the place wherein the proceeding is brought, to the Attorney General, and to the head of his employing Federal agency.

"(d) Upon a certification by the Attorney General that the defendant employee was acting within the scope of his employment at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place wherein it is pending and the proceedings deemed a tort action brought against the United States under the provisions of this title and all references thereto. Should a United States district court determine on a hearing on a motion to remand held before a trial on the merits that the case so removed is one in which a remedy by suit within the meaning of subsection (b) of this section is not available against the United States, the case shall be remanded to the State court.

"(e) The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677, and with the same effect."

SEC. 2. The amendments made by this Act shall be deemed to be in effect six months after the enactment hereof but any rights or liabilities then existing shall not be affected.

Approved September 21, 1961.

